



# Tax administrations' capacity in preventing tax evasion and tax avoidance

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**Abstract:** We explore the role of tax administrations in the fight against inequality through data analysis of a survey consisting of 71 questions that we have designed and sent to the tax administrations of all EU Member States. The survey focuses mainly on the capacity concerning the enforcement of tax policies aiming at combating fiscal fraud and tax avoidance and on specific institutional aspects that can potentially explain a lack of enforcement. The paper explores the data we received from seven respondent jurisdictions and combines it with additional data available through the [International Survey on Revenue Administration \(ISORA\)](#). Our analysis covers, among others, topics such as the protection of whistleblowers, performance and staffing of large taxpayer offices, prosecution activities and the “revolving door”-phenomenon. These topics were chosen based on data gaps we identified in existing datasets available on capacity of tax administrations. Building on (preliminary) analysis of this data, we indicate several issues which we consider as potentially the most critical with regards to countering inequality; we also generate several hypotheses likely to be used in future research.

Keywords: Tax Administration, Tax Evasion, Tax Avoidance, Economic Inequality, Administrative Capacity, Survey

JEL Codes: H26, H83, H87, K34, K42

## Acronyms

AEOI	Automatic exchange of information
BEPS	Base erosion and profit shifting
CBCR	Country by country reporting
CIAT	Inter-American Center of Tax Administrations
CIT	Corporate Income Tax
CYP	Cyprus
EU	European Union
EUROSAI	European Organisation of Supreme Audit Institutions
FIN	Finland
GRD	Government Revenue Dataset
HMRC	Her Majesty's Revenue and Customs (British tax administration)
HNWI	High Net Worth Individual
ICIJ	International Consortium of Investigative Journalists
ID	Identification number
ISORA	International Survey on Revenue Administration
LTO	Large Tax Payer Office
LTU	Lithuania
LVA	Latvia
NA	Not available
N/A	Not applicable
NR	No response
OECD	Organisation for Economic Cooperation and Development
PIT	Personal Income Tax
POL	Poland
PRT	Portugal

PWC	PriceWaterhouseCoopers
RA-FIT	Revenue Administration Fiscal Information Tool
SVK	Slovakia
TADAT	Tax Administration Diagnostic Assessment Tool
UK	United Kingdom
USAID	United States Agency for International Development
VAT	Value Added Tax

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# 1. Introduction

In recent years, following the financial crisis and pressure from civil society, governments of many countries have agreed on new legal tools to tackle tax evasion and avoidance and to reduce harmful tax competition, with the objective of fighting the growing inequalities within and in between many societies. Among these legal tools figures for example the automatic exchange of information of financial account data. In the realm of corporate tax avoidance, multinational enterprises are now required to produce so-called country by country reports, which give tax administrations data to better evaluate tax risks. However, rules and regulation are toothless if there are not sufficient resources available for implementing them. In order to evaluate progress (or regress) and to compare countries, it is therefore necessary to also take the dimension of administration and enforcement into account. In that context, the COFFERS research project on the capacity of tax administrations to fight inequalities in the European Union aims to generate a comprehensive comparative analysis of administrative and enforcement capacity.

## 1.1 Linking tax administration capacity to inequality

Two important tools for governments to reduce inequality are progressive taxation and progressive spending, i.e. to apply a higher tax rate to people with a higher ability to pay than others, and to spend public funds in a way that addresses the needs of people with low income or wealth. The tax administration's role is to collect sufficient revenue to fund progressive spending and to make sure that all taxpayers contribute to government funding according to the tax code.

Several factors may hinder tax administrations from collecting all the taxes that are due: a failure to collect outstanding tax debt, the non-detection of tax evasion or tax avoidance, a lack of capacity to audit the tax returns of legal entities and individuals, lack of clarity of the tax law, or a failure to engage in (strategic) litigation. Finally, political interference or "state capture" could cause all the above hurdles, by unduly interfering in policy making, tax administration or judicial systems. Politicians could use their influence on the capacity of tax administrations and deliberately reduce capacity (e.g. through low budget allocation) as a tool for attracting profit bookings, investment <sup>1</sup> or votes <sup>2</sup>.

Efforts of the tax administration should not only concentrate on maximizing revenue collection and, with regards to inequality, on equal treatment of taxpayers

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<sup>1</sup> Markus Meinzer, *Steueroase Deutschland. Warum Bei Uns Viele Reiche Keine Steuern Zahlen* (München, 2015), 144–85.

<sup>2</sup> Alejandro Esteller-Moré, 'Is the Tax Administration Just a Money Machine? Empirical Evidence on Redistributive Politics', *Economics of Governance*, 12/3 (2011), 275–99.

and on reducing the overall tax gap, but especially on making sure that the principle of progressive taxation is respected: those with a greater ability to pay should pay a greater amount than those with lesser ability to pay <sup>3</sup>. It is especially important that those taxpayers with a high ability to pay are not left out from enforcement – even though enforcing rules on them might be more difficult than on other taxpayers. If tax rules are not properly enforced, then a system which appears to be progressive, might become de facto regressive.

## 1.2 What is administrative capacity and how to measure it?

Administrative capacity could be broadly defined as the means that an administration disposes of to fulfil its mission. How can one tell apart which country's tax administration has a high capacity and which hasn't?

Gäde concludes that there are three broad different types of approaches to measure administrative capacity, namely input-, output- and perception-based approaches.

**Perception** based approaches measure capacity by assessing how capable individuals think a tax administration is. An example of such a measure is the question from the World Economic Forum Global Competitiveness Survey: "Is tax evasion in your country minimal?", which was referred to corporate executives in a given country, and which has been used as a measure for tax compliance by one study <sup>4</sup>.

The problem is that perception based indicators are at risk of reinforcing existing stereotypes or biases that exist in epistemic or other surveyed communities, as discussed for example by Cobham (2013) or Christensen (2007), and do not necessarily overcome the problems around comparability of survey data across jurisdictions and cultural contexts and traditions.

**Output** indicators try to measure a result, in this case the extent to which a tax administration fulfils its mission. Output indicators of tax administration capacity that have been used are for example the total tax revenue collected <sup>5</sup> or the actual tax revenue assessed or collected as percentage of an estimated potential tax revenue (tax gap)<sup>6</sup>.

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<sup>3</sup> Fiscalis 2020 Tax Gap Project Group, *The Concept of Tax Gaps. Report on VAT Gap Estimations*. (Brussels, 2016), 13 <[https://ec.europa.eu/taxation\\_customs/sites/taxation/files/docs/body/tgpg\\_report\\_en.pdf](https://ec.europa.eu/taxation_customs/sites/taxation/files/docs/body/tgpg_report_en.pdf)> [accessed 17 July 2018].

<sup>4</sup> Leslie Robinson and Joel Slemrod, 'Understanding Multidimensional Tax Systems', *International Tax and Public Finance*, 19/2 (2012), 253f.

<sup>5</sup> Gordana Savić and others, 'Impact of the Efficiency of the Tax Administration on Tax Evasion', *Economic Research-Ekonomska Istraživanja*, 28/1 (2015), 1138–48.

<sup>6</sup> Theodore Black and others, *Federal Tax Compliance Research: Tax Year 2006 Tax Gap Estimation* (Washington, DC, 2012) <<http://www.irs.gov/pub/irs-soi/06rastg12workppr.pdf>> [accessed 7 January 2014].

The basic issue with regards to output indicators is the difficulty to isolate tax administration capacity from other variables such as, for example, tax policy, economic performance or tax morale and thus the multitude of factors beyond the direct control of tax administrations that need to be included in analysis.

Controlling factors that should be taken into account are for example differences in tax structure (e.g. different taxes administered at different levels of government), organisation (for example one centralized tax administration against several organisations), functions attributed to the tax administration (administering only taxes, or also tariffs and social contributions?), as well as tax policy and priorities <sup>7</sup>. Other factors beyond the immediate scope of tax administrations could be the complexity of tax policy, i.e. if policies contain more special exemptions and loopholes, which often reinforce inequality as economically advantaged group are often able to negotiate these exemptions. On the other hand, tax evasion and tax avoidance are probably lowest if tax rates are zero or near zero (and by definition the tax code would be very uncomplex). In that case, the compliance gap would not be a good indicator of high capacity of the tax administration but rather of a low capacity of tax policy to combat inequality.

While it is possible to use some of these factors as control variables in a study that seeks to analyse the performance of tax administrations, it would be difficult to control all these factors at the same time.

Further, some relevant output indicators might not be linked to observable inputs in the same jurisdiction. For example, with regards to mutual administrative assistance in tax matters, levels of tax evasion (and therefore of inequality) depend to some extent on the administrative capacity of other jurisdictions, who have the responsibility of gathering data on foreign accounts from their banks and other financial institutions. In that case, the capacity of one tax administration influences the output measure of the tax administration of another jurisdiction.

**Input** indicators are measures of the tools that administrations have at hand to achieve their missions. These are for example budget, human resources, IT systems, specific legal powers and safeguards. The principal issue with input indicators is that without robust output indicators, it is difficult to measure which inputs are actually relevant. Further, they might be subject to problems of the “hen/egg” type. One study found that high enforcement capacities with regards to withholding taxes correlate with high levels of non-compliance<sup>8 9</sup>, suggesting that in countries with a high level of honesty among taxpayers and a high level

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<sup>7</sup> EUROSAT, *Benchmarking of Tax Administrations. Report of the EUROSAT Study Group*, 2008 <<https://www.eurosai.org/export/sites/eurosai/.content/documents/training/training-committee/Benchmarking-of-Tax-AdministrationsFinal-Report.pdf>> [accessed 25 July 2018].

<sup>8</sup> This was however the study mentioned above, which relied on a perception-based indicator for measuring non-compliance.

<sup>9</sup> Robinson and Slemrod, ‘Understanding Multidimensional Tax Systems’, 253f.

of voluntary compliance, the tax administration is endowed with less enforcement powers, since it supposedly does not need them. In that case, input indicators still measure the capacity of a tax administration, but it is difficult to compare countries based on input indicators only and to derive conclusions and recommendations on it, as the reasons for high/low capacity might not be the same.

One strategy to overcome these problems for measuring administrative capacity or indeed performance consists in establishing and testing hypotheses through a large number of both input and output variables. **The purpose of this study is thus** to gather more comprehensive input data on tax administration capacity and what could be called intermediate outputs (such as for example the number of audits or administrative penalties that an administration imposes) based on theoretical considerations. These new indicators could then be included in more comprehensive studies.

Finally, it should be mentioned that a number of studies<sup>10</sup> have calculated the efficiency of tax administration in **combining** several inputs (such as, for example, budget or staff) into output indicators (such as tax collection or reduction of the tax gap). This is, however, not the most relevant type of indicator with regards to gauging the capacity of tax administrations to effectively fighting inequality. It is the classical difference between efficiency (maximising the impact with a given set of inputs) and effectiveness (achieving a specific result with whatever resources or inputs are necessary).

Finally, the accuracy, robustness and relevance of measures relying both on input and output-based indicators depend to a large extent on data availability and quality. Reviewing the data available and suggesting further indicators that would need to be considered is the purpose of the following chapters.

## 2. Scope of data on tax administrations

Existing empirical data and evaluation tools on tax administration can be broadly categorized into 1) national level, single jurisdiction data and 2) multiple jurisdiction datasets, compiled by international and/or regional organisations, or in the case of USAID, by a single national organisation. There is currently no overview of the first type of data sources known to the authors, and we discuss briefly the second type below.

Different tools for the comparative assessment of the performance of tax administrations have been developed by international organisations over the last decade. Some of these are used by bilateral development organisations for evaluating the impact of official development assistance programs. Often, these tools

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<sup>10</sup> For example James Alm and Denvil Duncan, 'Estimating Tax Agency Efficiency', *Public Budgeting & Finance*, 34/3 (2014), 92–110. or Maria Katharaki and Marios Tsakas, 'Assessing the Efficiency and Managing the Performance of Greek Tax Offices', *Journal of Advances in Management Research*, 7/1 (2010), 58–75.

have had short life cycles, have been carried out only in a few countries, and have seldom published the results of the assessments, let alone the underlying data. Thus, on a worldwide basis it is for the moment difficult to compare jurisdictions with each other and over time. Nevertheless, with regards to OECD and EU countries the coverage of publicly available data is gradually improving as shown below.

## 2.1 Initiatives by international organisations

In the last decade several international workstreams focusing on collecting tax administration data were developed, and have by now been coordinated into one big data collection project:

The Tax Administration report of the OECD's Forum on Tax Administration is published every 2 years since 2004 and has undergone substantial change over the years. While covering only OECD members in 2004<sup>11</sup>, its coverage has been expanded to include 20 non-OECD countries in its latest issue in 2017<sup>12</sup>. Since 2013, it includes all EU and G20 member states. Data is usually gathered through a survey. All data collected is usually made public as annex to the report. Since the latest edition (2017), the data is made available as MS Excel table<sup>13</sup>.

The other international initiative to collect tax administration data is RA-FIT (Revenue Administration Fiscal Information Tool). This initiative emanated from the International Monetary Fund's (IMF) Fiscal Affairs Department technical assistance work and their practice to send surveys ahead of diagnostic missions to the respective revenue administrations<sup>14</sup>. Out of these practices, RA-FIT was developed. It comprised a survey questionnaire that was for the first time in 2012 sent to 120 IMF member countries. Round 2 commenced in May 2014<sup>15</sup> and was completed by 89 countries<sup>16</sup>. The data collected by the RA-FIT module however is not published in a country level breakdown for most countries/regions.

One notable exception to the above surveys is Latin America, for which the Inter-American Center of Tax Administrations (CIAT) coordinated and provided data for

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<sup>11</sup> OECD, *Tax Administration in OECD Countries: Comparative Information Series (2004)*, 2004 <<https://www.oecd.org/ctp/administration/CIS-2004.pdf>> [accessed 29 March 2017].

<sup>12</sup> Organisation for Economic Co-Operation and Development, *Tax Administration 2015. Comparative Information on OECD and Other Advanced and Emerging Economies* (Paris, 2015) <[http://www.keepeek.com/Digital-Asset-Management/oecd/taxation/tax-administration-2015\\_tax\\_admin-2015-en#page1](http://www.keepeek.com/Digital-Asset-Management/oecd/taxation/tax-administration-2015_tax_admin-2015-en#page1)> [accessed 9 January 2015].

<sup>13</sup> To be accessed here: <https://qdd.oecd.org/subject.aspx?Subject=TAS>

<sup>14</sup> Andrea Lemgruber, Andrew Masters and Duncan Cleary, *Understanding Revenue Administration: An Initial Data Analysis Using the Revenue Administration Fiscal Information Tool* (Washington, DC, USA, 2015), 3 <<https://www.imf.org/external/pubs/ft/dp/2015/fad1501.pdf>> [accessed 29 March 2017].

<sup>15</sup> Lemgruber, Masters and Cleary, *Understanding Revenue Administration*, 5.

<sup>16</sup> International Monetary Fund, *Tax Policy And Administration Trust Fund Annual Report 2016*, 2016, 18 <<https://www.imf.org/external/np/ins/english/pdf/2016ar.pdf>> [accessed 29 March 2017].

the first round of surveys, feeding into RA-FIT. CIAT's own work on tax administrations in Latin America was an important precursor to RA-FIT, and CIAT published a report in 2012 jointly with the Inter-American Development Bank and a regional IMF office, that contained standardized, detailed questions and country level data for the years 2006-2010<sup>17</sup>. In 2016, CIAT published a detailed report including country level breakdowns on the results of the 2<sup>nd</sup> RA-FIT round<sup>18</sup>.

For 2017, a collaboration between the OECD, CIAT, the Intra-European Organisation of Tax Administrations (IOTA) and the IMF has begun to jointly collect data on tax administrations through ISORA (International Survey on Revenue Administration), and which would replace the particular workstreams of each organisation. In their communique of the 10<sup>th</sup> Meeting of the Forum on Tax Administration in Beijing on 13 May 2016, this new collaborative endeavour was labelled "a milestone in international collaboration, cost reduction and efficiency ultimately delivering a comparative data set for over 150 tax administrations from around the world"<sup>19</sup>, a view echoed by the International Monetary Fund (2017: 16). The OECD based the 2017 edition of its Tax Administration report (see above) on the data collected via this survey and published the data collected on 55 member states of OECD, EU and G20<sup>20</sup>. According to the OECD, some terms were defined so that data could be best compared across jurisdictions. However, this has altered some definitions of previous OECD Tax Administration survey, so that an over-time comparison is not possible for all variables anymore<sup>21</sup>.

In general, however, the publication of reports based on and including the underlying data collected through ISORA is likely to remain under the sole responsibility of each member country, so that no comprehensive dataset on all 150 tax administrations is currently publicly accessible. Apart from the OECD, no organisation has published a report with freely accessible data from ISORA. Nevertheless, at least with regards to OECD, EU and G20 member states, this report represents a large improvement in terms of data availability. A caveat remains a relatively

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<sup>17</sup> Fernando Diaz Yubero and Miguel Pecho, *State of the Tax Administration in Latin America: 2006-2010*, Inter-American Center of Tax Administrations, CIAT / Inter-American Development Bank, IDB / Regional Technical Assistance Center for Central America, Panama and Dominican Republic CAPTAC-DR, IMF, 2012 <<https://publications.iadb.org/bitstream/handle/11319/3506/State%20of%20the%20TA%20in%20LATAM%202006-2010.pdf?sequence=7>> [accessed 29 March 2017].

<sup>18</sup> Luis Alberto Arias, *Las Administraciones de Ingresos En América Latina y El Caribe 2011-2013*, Centro Interamericano de Administraciones Tributarias CIAT, 2016 <[https://ciat.org-public.sharepoint.com/biblioteca/DocumentosTecnicos/Espanol/2016\\_Estado\\_AT\\_ALC\\_2011-2013.pdf](https://ciat.org-public.sharepoint.com/biblioteca/DocumentosTecnicos/Espanol/2016_Estado_AT_ALC_2011-2013.pdf)> [accessed 29 March 2017].

<sup>19</sup> OECD Forum on Tax Administration, *Communiqué of the 10th Meeting of the OECD Forum on Tax Administration (FTA)* (Beijing, 13 May 2016), 2 <[www.oecd.org/tax/forum-on-tax-administration/meetings/fta-communique-2016.pdf](http://www.oecd.org/tax/forum-on-tax-administration/meetings/fta-communique-2016.pdf)> [accessed 24 March 2017].

<sup>20</sup> OECD, *Tax Administration 2017*, Tax Administration (2017) <[http://www.oecd-ilibrary.org/taxation/tax-administration-2017\\_tax\\_admin-2017-en](http://www.oecd-ilibrary.org/taxation/tax-administration-2017_tax_admin-2017-en)> [accessed 5 October 2017].

<sup>21</sup> OECD, 'Tax Administration Database', 2018 <<https://qdd.oecd.org/subject.aspx?Subject=TAS>> [accessed 26 July 2018].

high number of item non-responses, i.e. many questions on subjects of interest were only answered by a small number of respondent jurisdictions.

Thematically, the above-mentioned reports cover organisational aspects of tax administrations, practices regarding taxpayer registration, modes of return filing and payment, audits, details on human resources and budgets, and a range of other topics that relate to the performance of tax administration.

The topics covered by the ISORA database were taken as base for the selection of further questions included in our survey.

## **2.2 Initiatives by the European Union**

European Union institutions have also undertaken some work in the field of tax administration:

The European Commission publishes every year a report on tax policy based on a survey<sup>22</sup>. It covers mainly issues of policy such as the tax mix, incidence of certain taxes, and tax policies' effect on issues such as economic growth, job creation or inequality. It nevertheless assesses some aspects of tax administration such as for example the digitalisation of tax administration.

Further, the European Commission has issued the "Fiscal Blueprints" in 2007<sup>23</sup>, which is basically a questionnaire that can be used by individual tax administrations for self-assessment. However, the European Commission has not collected any comparative data on the questions contained in the "Fiscal Blueprints".

## **2.3 Other notable research and data sources**

TADAT (Tax Administration Diagnostic Assessment Tool) is the latest effort to create an integrated evaluation tool of the performance and development of a tax administration in a collaborative manner, initiated 2011 by the International Monetary Fund (2013). It is supported by various bilateral donors and assessed mainly low income or lower middle-income countries (LICs and LMICs). While the first 17 pilot assessment have been completed in December 2015, and a further 28 assessments have been completed in 2016 and 2017<sup>24</sup>, only 13 summary assessments have been published as of July 2018<sup>25</sup>. The TADAT secretariat needs the permission of the reviewed jurisdiction to make a report public. The published

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<sup>22</sup> European Commission, *Tax Policies in the European Union. 2017 Survey* (Brussels, 2017) <[ec.europa.eu/taxation\\_customs/sites/taxation/files/tax\\_policies\\_survey\\_2017.pdf](http://ec.europa.eu/taxation_customs/sites/taxation/files/tax_policies_survey_2017.pdf)> [accessed 27 June 2018].

<sup>23</sup> European Commission - Taxation and Customs Union, *Fiscal Blueprints. A Path to a Robust, Modern and Efficient Tax Administration*, 2007 <[ec.europa.eu/taxation\\_customs/sites/taxation/files/resources/documents/common/publications/info\\_docs/taxation/fiscal\\_blueprint\\_en.pdf](http://ec.europa.eu/taxation_customs/sites/taxation/files/resources/documents/common/publications/info_docs/taxation/fiscal_blueprint_en.pdf)> [accessed 27 March 2017].

<sup>24</sup> [www.tadat.org/files/tadatassessments.pdf](http://www.tadat.org/files/tadatassessments.pdf); 20.07.2018.

<sup>25</sup> [http://www.tadat.org/Field\\_Guide/PerformanceAssessmentReports.html](http://www.tadat.org/Field_Guide/PerformanceAssessmentReports.html); 20.07.2018.



reports contain the assessment results, and also provide some underlying data, in differing granularity.

The Asian Development Bank published a report on tax administration capacity similar to the reports published by OECD and CIAT in 2014 with a revised version in 2016<sup>26</sup>. However, country-level data was not made available, and no information could be found on whether future reports will be conducted.

To sum up, the exact extent of data gaps in the evaluation of the capacity of tax administrations is changing rapidly and the landscape of publicly available is gradually improving. Furthermore, there is currently no mapping available on the published statistics or public datasets by national tax administrations.

As conversations with tax administration officials of various backgrounds confirm, and as experience with research into staffing levels of tax audit functions in Germany has shown, a major obstacle is likely to consist in the sensitive nature and confidentiality of the data involved<sup>27</sup>. As tax is directly related to the core of statehood and sovereignty, it is often jealously guarded, and some jurisdictions may be unwilling to share data that may reveal shortcomings in sensitive functions of tax administration.

Furthermore, to our knowledge, specific issues that are relevant to inequality have not been assessed in any of the reviewed surveys. This report attempts at closing this gap.

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<sup>26</sup> Asian Development Bank, *A Comparative Analysis of Tax Administration in Asia and the Pacific: 2016*, 2016 <<https://www.adb.org/sites/default/files/publication/193541/tax-admin-asia-pacific-2016.pdf>> [accessed 10 August 2018].

<sup>27</sup> Meinzer, *Steueroase Deutschland. Warum Bei Uns Viele Reiche Keine Steuern Zahlen*.

## **3. Method**

### **3.1 Process**

Based on considerations explained below, a survey was designed and sent out to official email addresses of tax administrations of the 28 EU member countries (and to additional contact persons within the tax administrations) on 16 April 2018. Surveys could be accessed as pdf, xlsx or docx file, together with a glossary. A copy of the survey is enclosed as annex A, and the glossary is enclosed as annex B. A reminder email was sent to all 28 jurisdictions a week before the deadline, which was on 9 May 2018. Following the reception, emails with requests for clarification or for additional data were sent out to respondent countries.

### **3.2 Questionnaire**

The questionnaire consisted of nine topics with a total of 71 questions. On most questions, jurisdictions were asked to provide data for the years 2015 to 2017 so that trends could be analysed. The topics addressed in this questionnaire were chosen due to their relevancy for tax administrations' role in containing and reducing economic inequality and with the perspective of complementing data already collected by other surveys, mainly the International Survey on Revenue Administration (ISORA). As a result, issues that are relevant for countering inequality by tax administrations, but which have already been covered by ISORA, were left out of our questionnaire<sup>28</sup>.

As mentioned above, if tax policy is not properly enforced, then a system which is progressive on its face might become de facto regressive. Therefore, the questionnaire focuses on the capacity of administrations to enforce rules and to foster compliance. This includes topics on administrations' practices in areas such as auditing, collecting penalties, prosecution, and the use of data received pursuant to automatic information exchange of financial account data and country by country reporting. Other questions rather focus on reasons which may lie behind a lack of efforts to enforce policies necessary to fight inequality. These include institutional choices, prioritization, and the risk of "state capture" by private interests. In this regard, the questionnaire asks questions on the protection of whistleblowers, the staffing of Large Taxpayer Offices and High-Net-Wealth-Individuals units as well as the mobility of staff between public and private sectors.

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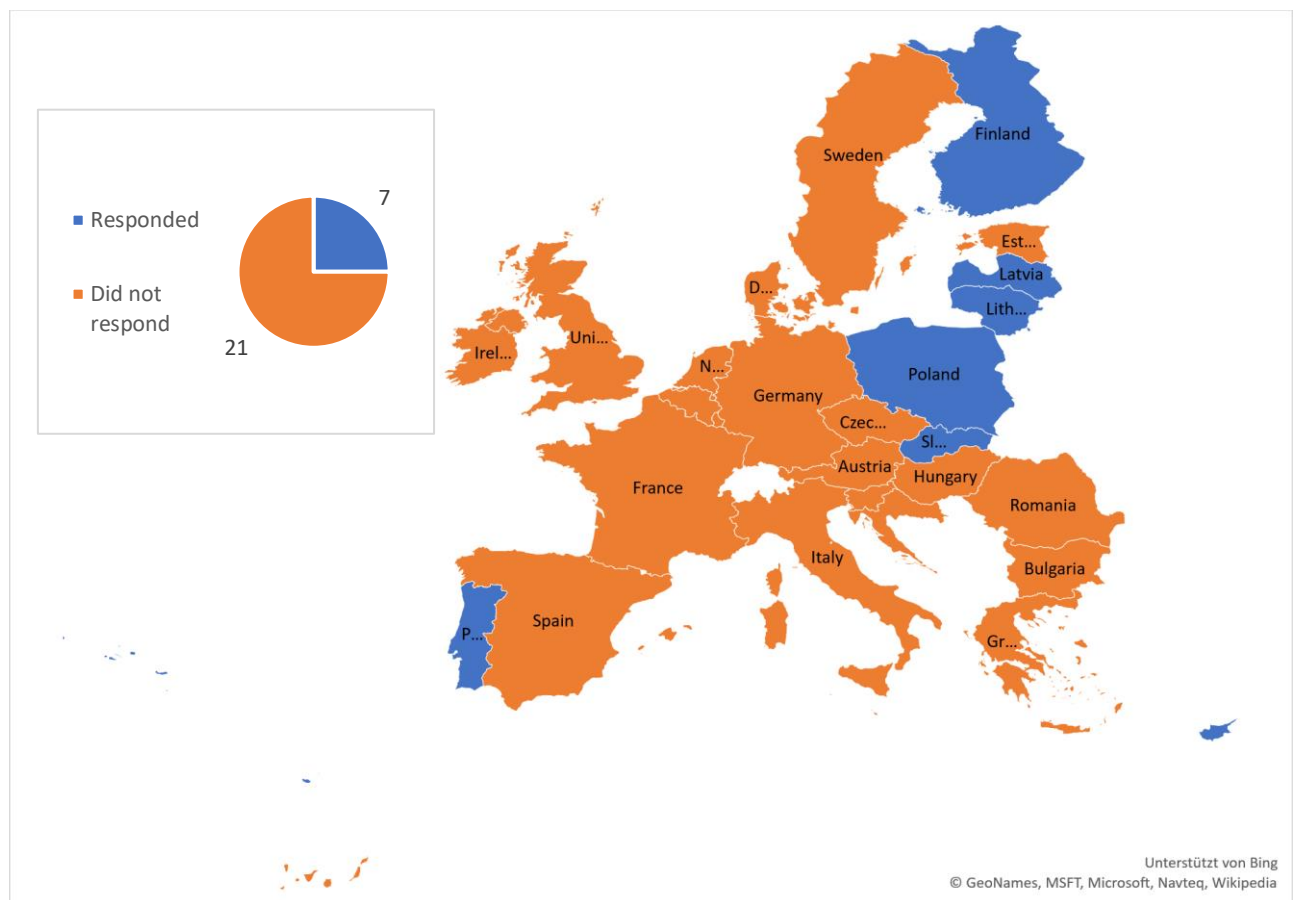
<sup>28</sup> But data from ISORA was used to combine it and compare it with data gathered through our survey.

### 3.3 Responses received

The following seven countries responded and sent back a filled-in questionnaire: Cyprus, Finland, Latvia, Lithuania, Poland, Portugal, Slovakia<sup>29</sup>. This is a response rate of 25%. Figure 1 below provides an overview of the responses to the survey.

Several jurisdictions made use of notes to explain certain answers. In some cases, follow-up e-mails were exchanged with the respondents in order to clarify some issues with the data provided.

*Figure 1: Countries which responded to survey sent out to tax administrations of 28 EU member states*



<sup>29</sup> Additional countries responded to the request without filling in the questionnaire: Ireland, Denmark and the Netherlands responded they will not answer the questionnaire. In addition, Ireland responded they did not have capacity to answer the questionnaire, but they provided annual reports. These, however, were not used in this report, given it was not clear whether the information included matches the questions in the survey. Belgium responded without answering the questionnaire.

## 4. Survey analysis

### Structure of this section/Reading guidance

For each of the nine topics covered by our survey, this section provides the context which has led us to choose the specific questions, the results we received, and their analysis. The data source of the figures presented is always our survey and follow-up emails, unless explicitly stated otherwise.

For each of the following sub-chapters (corresponding to each of the topics covered), we apply the following structure: First comes a description of the context of the topic and the theoretical and practical reasons why the specific questions were asked. Afterwards, the responses received will be presented and described. Potential caveats of the relevant questions and the responses received will be mentioned.

Finally, hypotheses about the meaning of the results in light of the theoretical reasons will be generated. It should be kept in mind that due to a limited number of respondents the results might not be representative of tax administrations in general.

Some responding jurisdictions did not provide answers to several questions, most of which either because questions were not applicable to the jurisdiction or because data was not available; in some cases, the reasons remain unknown.

In the following parts we employ the following codes to distinguish the types of non-responses:

NA = The jurisdiction reported that the data on this question was not available.

N/A = The jurisdiction reported that the question was not applicable, or this could be deducted from responses given to other questions.

NR = The jurisdiction left the field blank without further explanation.

As part of our analysis of the data we received (and as can be seen in the following graphs), we treated “not-applicable”, “not available” as a non-response, so that it is possible to see the availability of data from tables such as table 1.

Table 1: Responses received to specific questions, not available or not applicable="No"

	CYP	FIN	LTU	LVA	POL	PRT	SVK
Number of desk audits	Partial	Partial	Yes	Partial	Yes	Yes	No
Audits of tax returns	No	Yes	Yes	Partial	Yes	No	Partial
On-site audits	Partial	No	Yes	Partial	Partial	Partial	Partial
Administrative penalties imposed	No	Partial	Yes	Yes	No	Yes	Yes
Administrative penalties collected	No	Partial	Yes	No	No	Yes	No
Prosecutions	No	No	No	Partial	Partial	Yes	No
Whistleblower protection	Yes	Yes	No	Yes	Yes	Partial	No
Large taxpayer office	Partial	Yes	Partial	Yes	No	Partial	Partial
High net worth individual unit	No	Partial	No	No	No	Partial	No
Staff mobility	Partial	Partial	Partial	Partial	Partial	Partial	No
Automatic exchange of information	Partial	Partial	Yes	Partial	Yes	Partial	Partial
Country by country reporting	Yes	Partial	Partial	Yes	Yes	Yes	Partial

## 4.1 Audit activity

### 4.1.1 Context

Verifying information and claims returned by the taxpayer to the tax administration ranks among the main tasks of every tax administration and constitutes the first step in enforcing tax policy and ensuring that a taxpayer is charged the correct amount of taxes. Audit activity can be carried out in different ways: controlling the consistency of information provided in a tax return, conducting enquiries when irregularities are detected or visiting the taxpayer's premises to verify claims or seize documents. In our survey, we concentrated on desk audits, which is the most common form of audit activity, as well as on the number of tax returns that are audited by a tax administration. A desk audit is an "intervention usually resulting from an in-office review of information returned by the taxpayer and normally takes the form of further written or telephonic enquiries." <sup>30</sup>.

If only a low number of tax returns is actually audited, it could mean that taxpayers would calculate that the probability of detection of false statements is very low and thus a number of taxpayers would probably underreport taxable income. Auditing therefore does not only fulfil the function of correcting false statement by taxpayers, but also of preventing taxpayers from making false statements in the first place – if the latter know that they are likely to be detected (deterrence effect).

The OECD Tax Administration report provides a significant amount of data on audit activity and delivers numbers of audits broken down by type of audit (desk audit, comprehensive audit, issue-oriented audit) and by type of tax (PIT, CIT,

<sup>30</sup> IMF and others, 'International Survey on Revenue Administration (ISORA) - Questionnaire', 2016, 43 <<http://data.rafit.org/?sk=3dba84d7-1dd8-4533-b682-c0dfcb1d7f13&sid=1445908451587>> [accessed 16 July 2018].

VAT, tax withheld from employers). It does not ask, however, for the number of tax returns that are audited.

However, these two kinds of breakdowns are not combined with each other. Therefore, it is impossible to know what kind of audits and how many are carried out for which types of tax.

Finally, the decisive information about the intensity by which a tax administration undertakes audits is the number of audits where auditors actually visit the premises of the taxpayers to gather information. In that context it is important to consider for which type of taxpayer and tax these intense audits are done. One would expect that large corporate income taxpayer are more intensively audited, as the risk of tax avoidance (in terms of value) is higher in this category and the potential additional amount that could be collected greater. A greater focus on smaller taxpayer could point problematic political influence of large taxpayers or deliberate considerations to leave these out of the compliance effort.

Thereby it also matters how well these audit activities are staffed. A reduction in staff or in numbers of audits undertaken could signify that a tax administration reduces its efforts to identify tax fraud.

The questionnaire therefore asked for the total number of desk audits undertaken by the tax administration, as well as for the number of audits undertaken for each type of tax (PIT, CIT, VAT) for the years 2015 to 2017. It also asked for the total number of tax returns audited by the tax administration, as well as for the number of audits undertaken for each type of tax (PIT, CIT, VAT) for the years 2015 to 2017. It subsequently asked to indicate all numbers as a percentage of all tax returns received. Finally, concerning on-site audits, it asked for the number of on-site audits carried out, the staffing as well as for the additional amounts collected during those audits. These data points were requested for each year from 2015 to 2017 as well as for each category of taxes (PIT, CIT, VAT including a special question on large CIT taxpayers).

#### 4.1.2 Results

A total of 6 jurisdictions provided an answer on desk audits, and 5 on audits of tax returns:

*Table 2: Responses received - desk audits*

	CYP	FIN	LTU	LVA	POL	PRT	SVK
Number of desk audits	Partial	Partial	Yes	Partial	Yes	Yes	No <sup>31</sup>
Audits of tax returns	No	Yes	Yes	Partial	Yes	No	Partial
On-site audits	Partial	No	Yes	Partial	Partial	Partial	Partial

<sup>31</sup> Slovakia responded that the questions are not applicable, since in “accordance with the Tax Code, Slovak Financial administration does not perform desk audits.”

#### 4.1.2.1 Desk audits

Figure 2: Number of desk audits - Cyprus

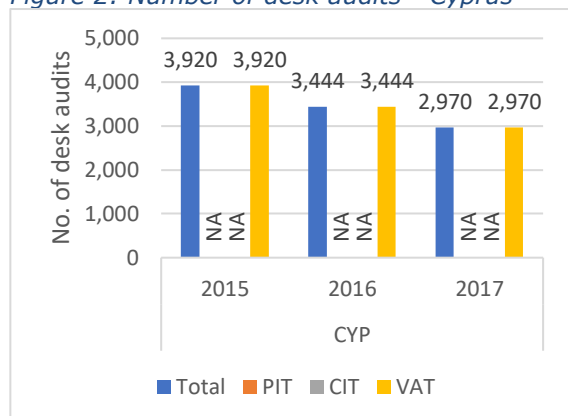
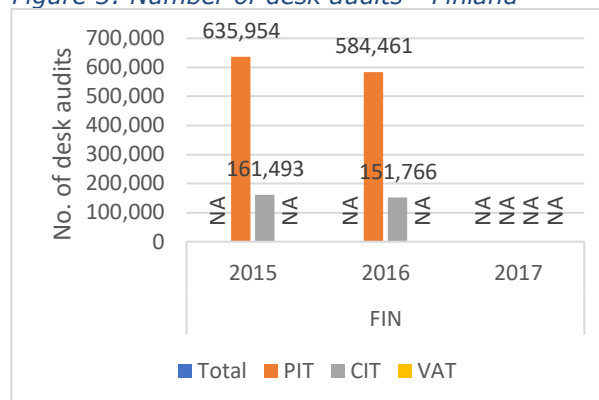


Figure 3: Number of desk audits - Finland



Note: Data for 2017 was not ready yet.

Figure 4: Number of desk audits - Lithuania

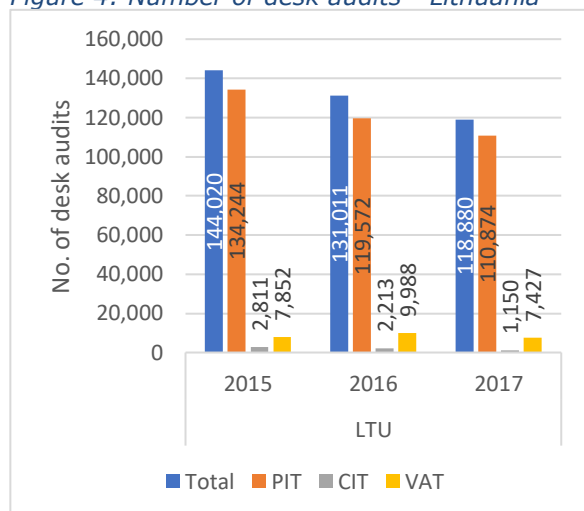
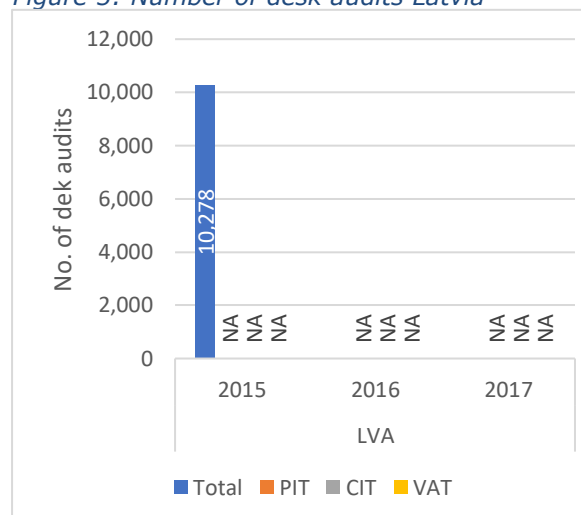


Figure 5: Number of desk audits Latvia



Note: See footnote.<sup>32</sup>

<sup>32</sup> Lithuania noted that the numbers show how many tax investigations have been conducted and how many taxpayers were contacted (by phone, e-mail, other means) regarding incorrect tax returns. In the ISORA questionnaire, Lithuania reported a significantly inferior total number of desk audits carried out, as since then Lithuania has revised its internal definition of what it considers as desk audits. Further, Lithuania noted that a "tax investigation could cover the examination of tax returns and payment of few taxes (e.g. VAT and CIT). In these cases, such tax investigation is assigned to both categories: "Number of Desk Audits regarding Corporate Income tax (CIT)" and "Number of Desk Audits regarding Value Added Tax (VAT)".

Figure 6: Number of desk audits - Poland<sup>33</sup>

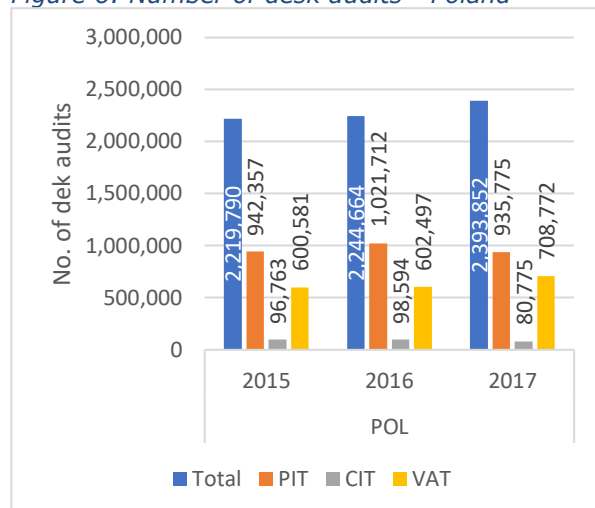
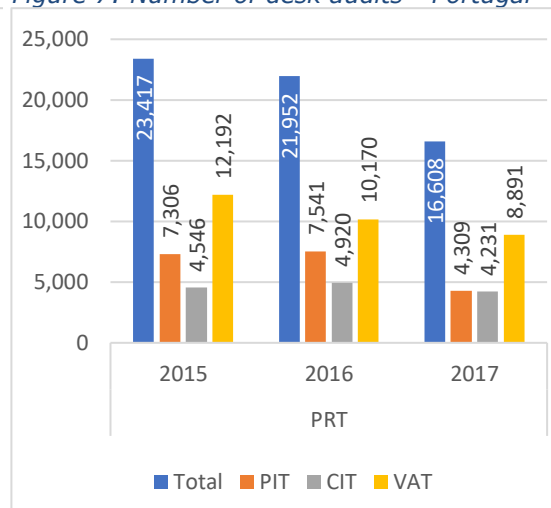


Figure 7: Number of desk audits - Portugal



The figures above show that between 2015 and 2017, the numbers of desk audits decreased in Cyprus, Finland, Lithuania and Portugal. Poland carried out less desk audits regarding PIT and CIT in 2017 than in 2015, but nevertheless recorded a higher total number of desk audits because of significantly more audits done on VAT. Portugal and Latvia only provided data on the total number in 2015, so no comparison over time was possible.

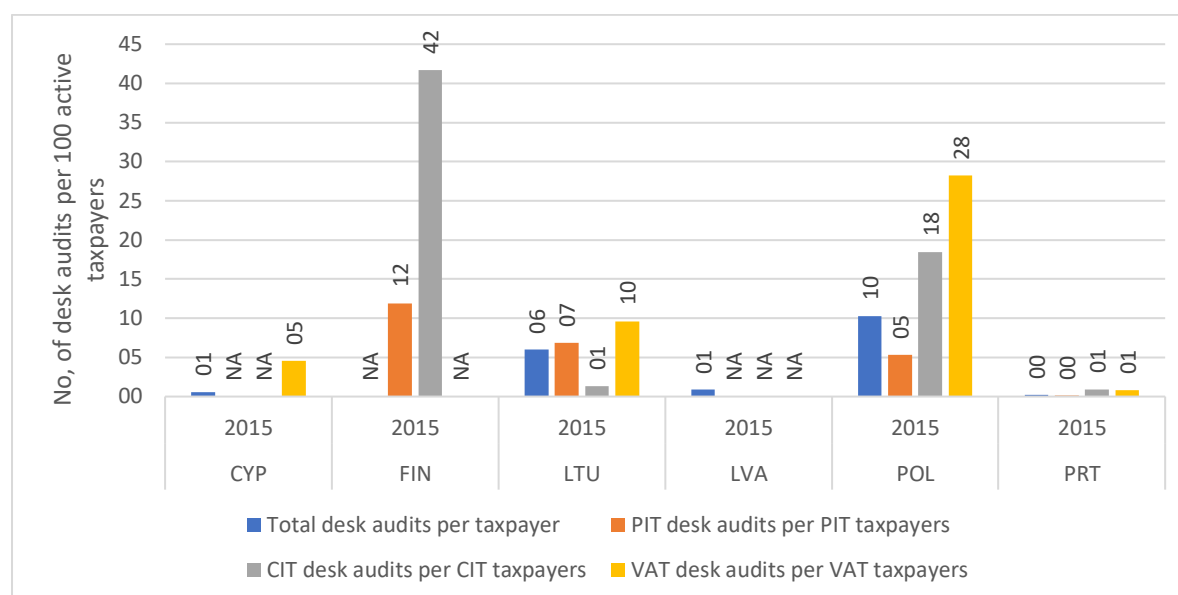
The data is presented separately for each country, since the figures are on entirely different scales; for example, while each year more than 2 Million desk audits are conducted in Poland, there are only about 12,000 in Latvia.

To compare countries with each other as well as to compare the relative importance of the types of taxes, the data on audit activity needs to be put in relation with the numbers of taxpayers in each country for each type of tax, which is the purpose of the next graph.

<sup>33</sup> In Poland the total number is significantly greater than the sum of PIT+CIT+VAT, which probably means that the total includes the number of desk audits carried out with regards to other taxes.



Figure 8: Desk audits per 100 taxpayers - comparing countries and tax types



Note: The number of active taxpayers is taken from the OECD Tax Administration 2017 report <sup>34</sup>. The data IDs 82750, 82760, 82770 and 82780 for year 2015. Only the data for the year 2015 was available regarding the number of active taxpayers. Since the total number of desk audits might also include other types of taxes, the total number of taxpayers was calculated as the sum of PIT, VAT, CIT taxpayers and of employers paying withholding tax<sup>35</sup>. The numbers of desk audits are taken from the responses to our survey, as presented in Figures 2-7 above. For better readability, the number of desk audits was multiplied by 100.

Finland and Poland put a rather high emphasis on desk audits of CIT taxpayers, while Lithuania rather focuses on PIT and VAT. In Poland, the focus on VAT tax returns is the greatest. Given the data on taxpayers is only available from ISORA for the year 2015, it is not possible to make the comparison over time. This is only possible to some extent within countries, as done above (although some fluctuations in the number of taxpayers over the years are also likely to take place).

#### 4.1.2.2 Audits of tax returns

<sup>34</sup> OECD, *Tax Administration 2017 Annex A: Data Tables*, Tax Administration (2017), 158–63 <[https://www.oecd-ilibrary.org/taxation/tax-administration-2017/data-tables\\_tax\\_admin-2017-21-en](https://www.oecd-ilibrary.org/taxation/tax-administration-2017/data-tables_tax_admin-2017-21-en)> [accessed 5 October 2017].

<sup>35</sup> Representing the total number of taxpayers as sum of the 4 numbers of taxpayers for each of these 4 types of taxes might be problematic, as there might be other types of taxes or one taxpayer might be registered for several types. However, it is the best approach available from the data we dispose of.

Figure 9: Number of audits of tax returns - Finland

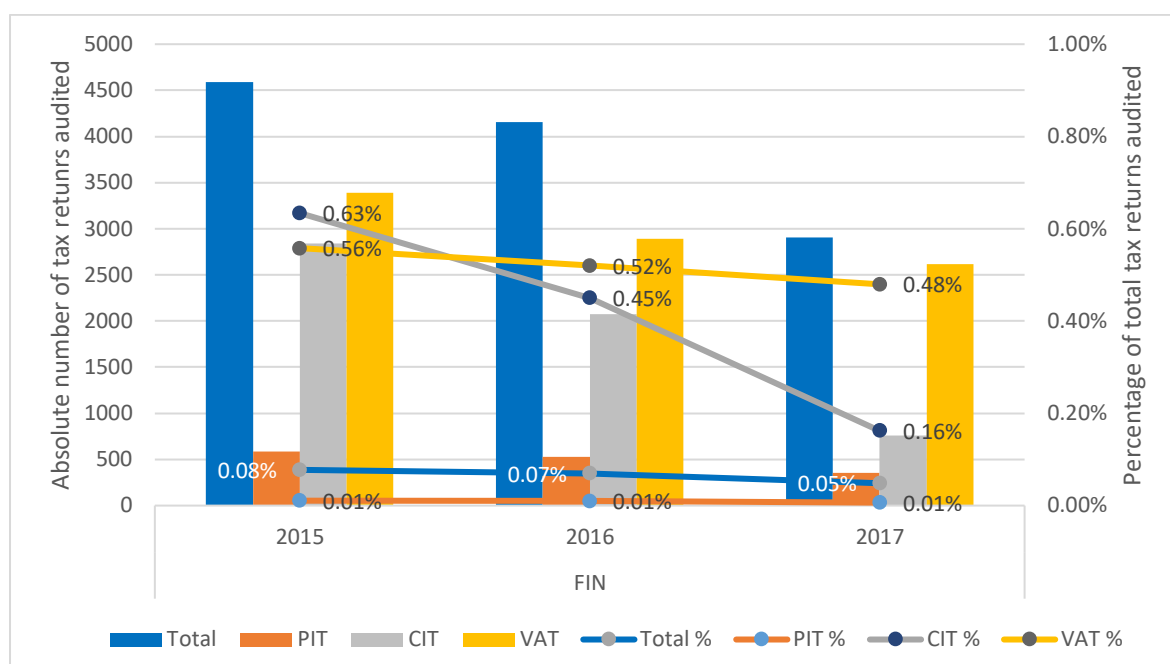


Figure 10: Number of audits of tax returns - Lithuania

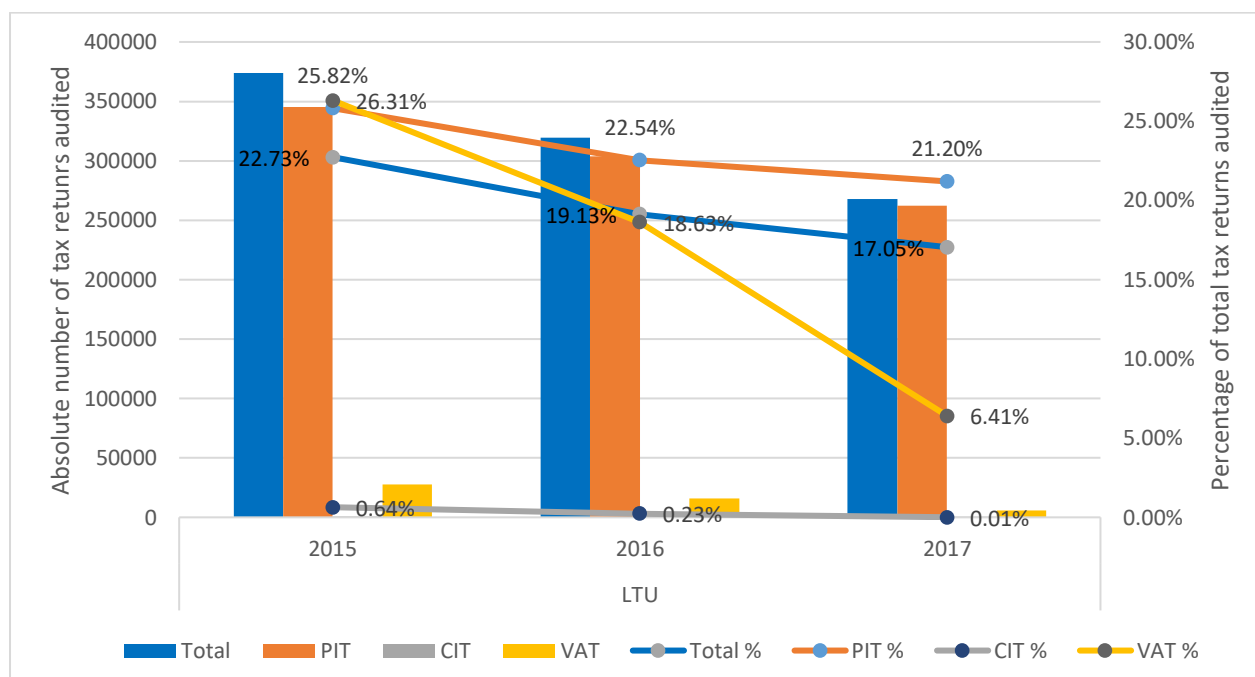
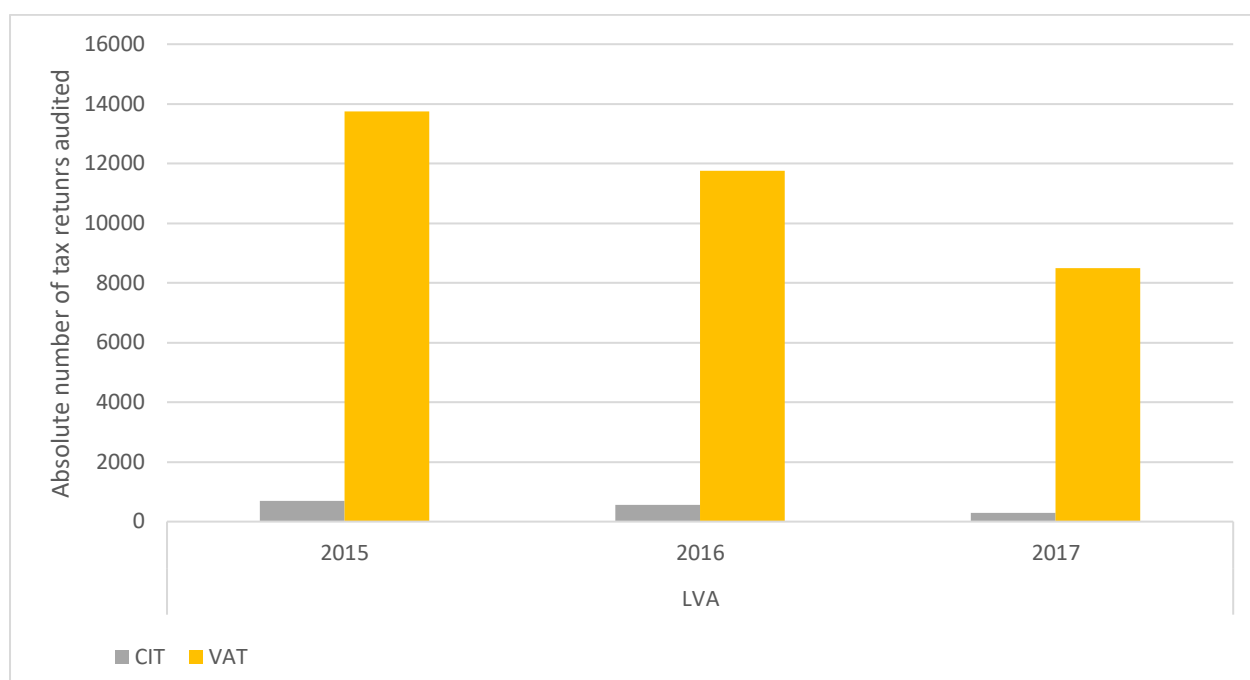
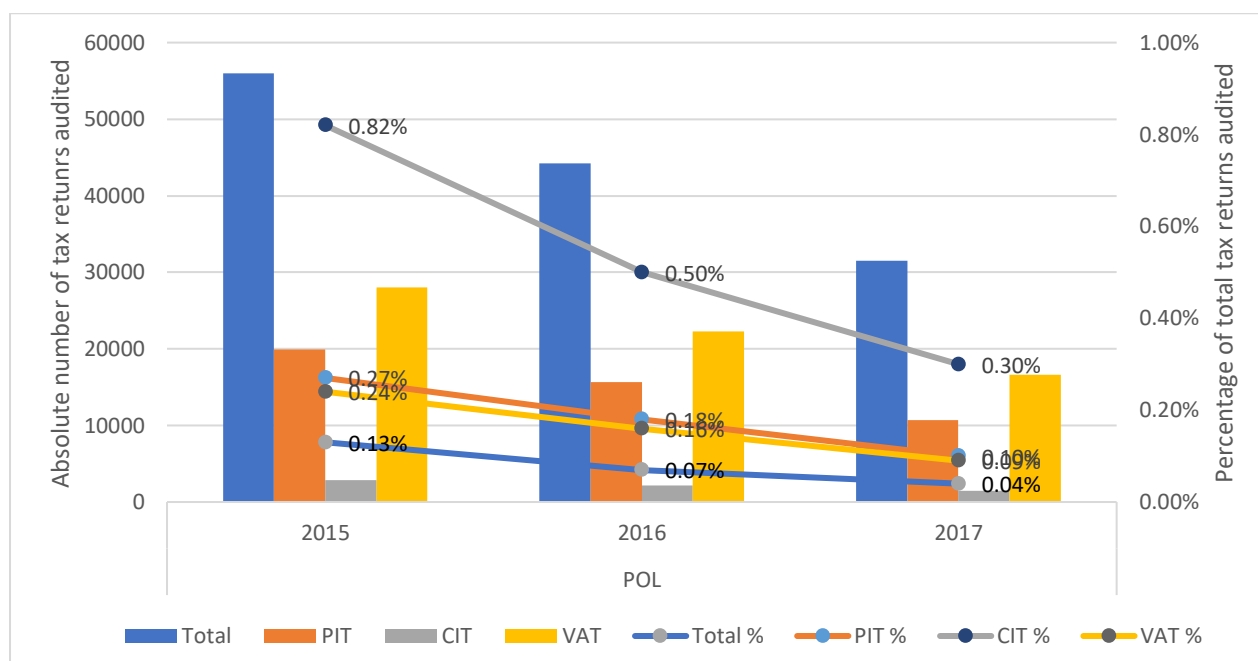


Figure 11: Number of audits of tax returns - Latvia



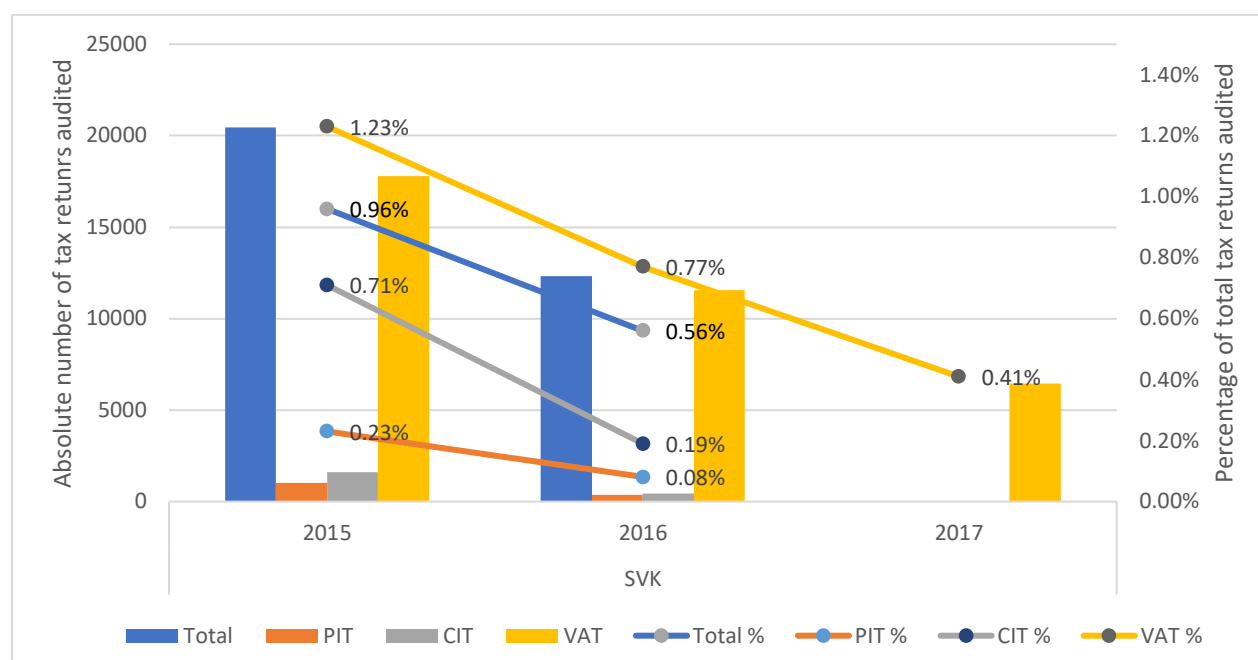
Note: Latvia noted that tax audit of the Latvian tax administration is carried out for a specific tax period and type of taxes, not for declarations. Therefore, it is not possible to specify the number of audits as a percentage of tax returns. No data on PIT and no total number was provided.

Figure 12: Number of audits of tax returns - Poland



Note: Poland noted that the data on number of audits in PIT, CIT and VAT relate to the audits during which irregularities were detected. The VAT audits usually embrace at least a period of a year and according to the Polish tax law in general taxpayers are obliged to submit VAT returns monthly.

Figure 13: Number of audits of tax returns - Slovakia



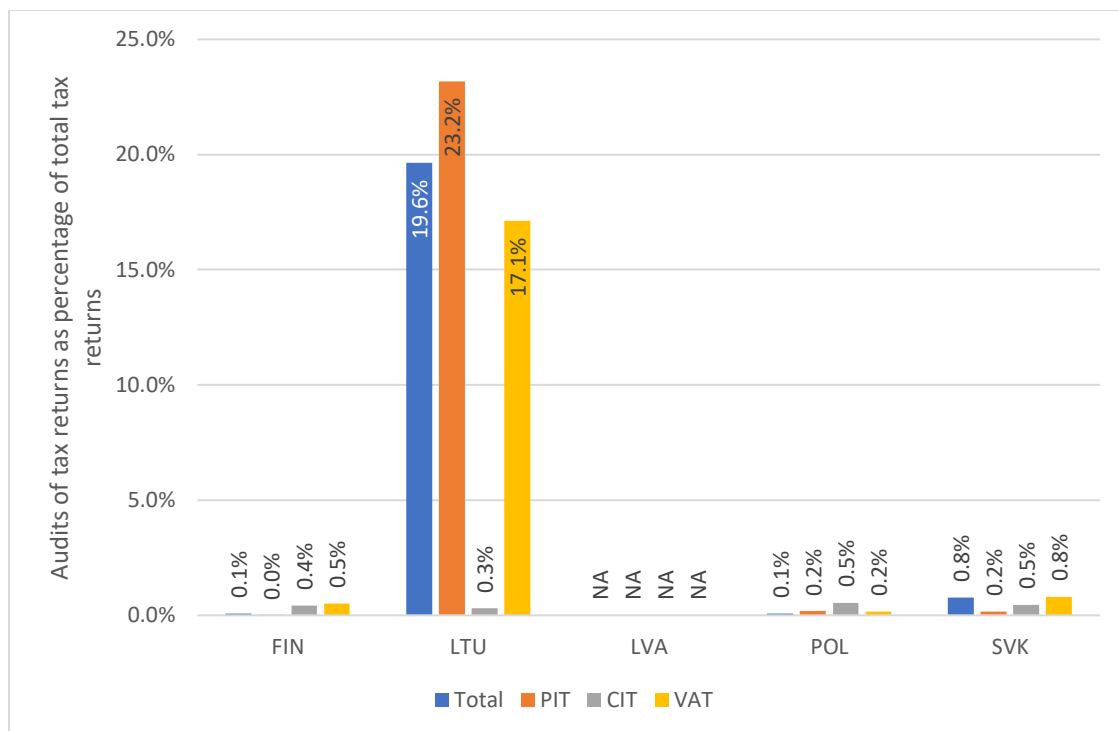
Note: Slovakia noted that the numbers of PIT include only income tax of business (entrepreneurs and legal persons). For the year 2017, only data on VAT was available.

In all 5 countries, the number of audits seems to decrease, both in absolute numbers and as a percentage of all submitted tax returns. Moreover, this pattern can be observed for all three types of taxes, with a different magnitude however. In Finland, the overall reduction of audits is mostly due to a reduction of the audit of CIT tax returns. In Lithuania, audits of VAT tax returns have been reduced the most. It should be noted that different scales were used to present data for each country. Lithuania is an outlier compared to the other countries, with up to 26% of tax returns audited compared to only around 1% for all other countries. The footnote concerning Poland is important in this regard, however, as it indicates that the number provided does not relate to all returns that have undergone checks, but only to those that have been examined more closely after the preliminary checks have revealed irregularities. Such understanding may explain the rather low percentages of tax returns audited.

The absolute numbers of returns audited also vary a lot between countries, but this can be explained by the different numbers of total tax returns submitted.

The following graph compares the average percentages of tax returns audited between countries and types of tax:

Figure 14: Number of audits of tax returns as a percentage of total tax returns submitted - comparing countries and taxes



Note: The numbers are averages of the years 2015-2017. Latvia provided data on absolute numbers of tax returns audited, but not as a percentage of total tax returns submitted.

The stark discrepancy between the number reported by the Lithuanian tax authority might point to a completely different audit practice or to a different understanding of the concept “audit of tax return”. It is also noteworthy that except from Lithuania, all jurisdictions have reported a lower number of audits of tax returns than desk audits.

#### 4.1.2.3 On-site audits

Figure 15: Number of on-site audits by category of taxpayer

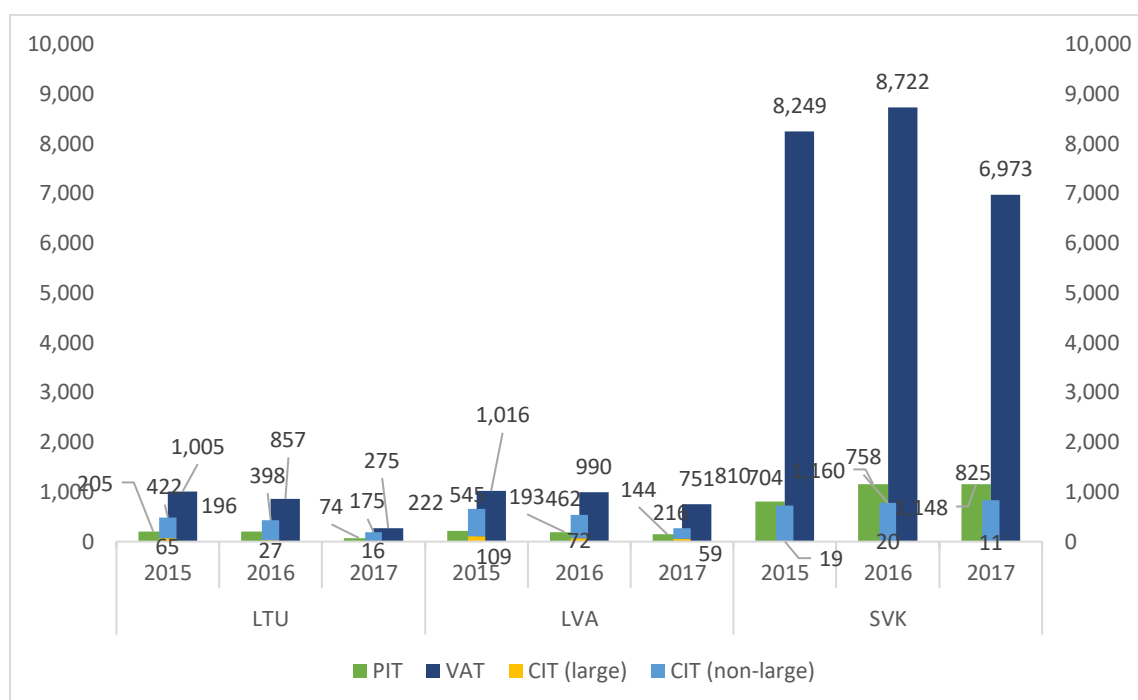
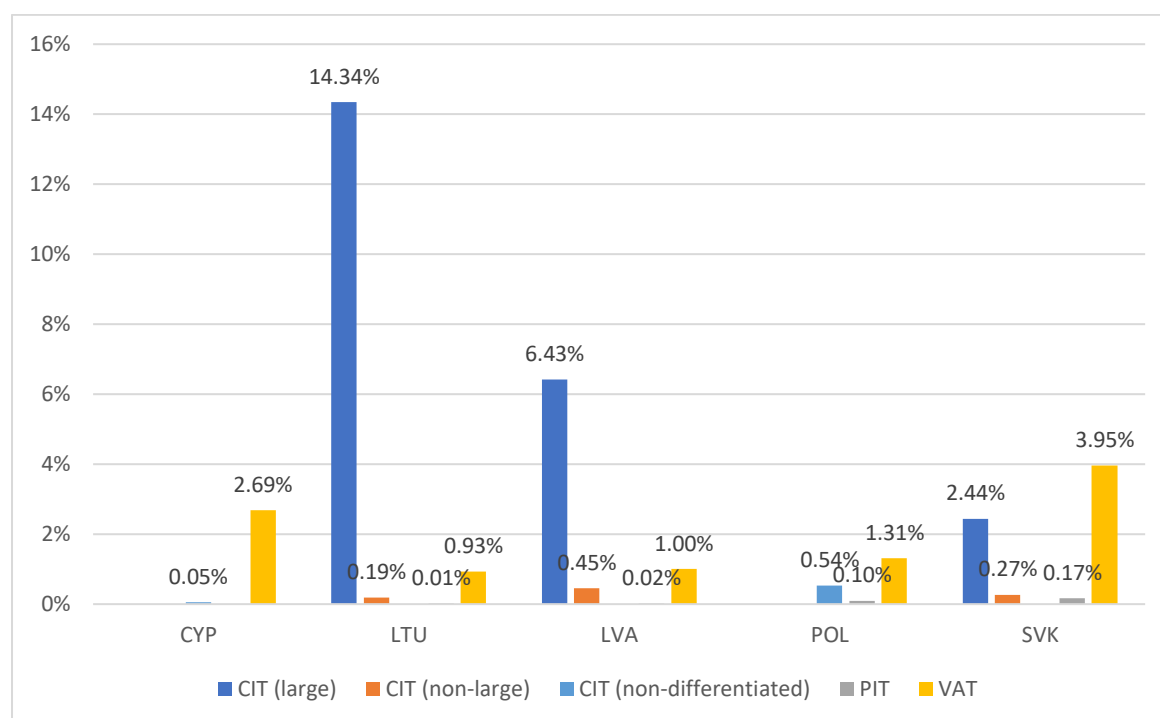


Figure 15 shows that the number of on-site audits that have been carried out have been reduced between 2015 and 2017 by all three jurisdictions. In Slovakia, by far the most on-site audits are carried out with regards to VAT, followed by PIT and lastly CIT. In Latvia and Lithuania, most of on-site audits are also carried out on VAT, but the difference is less striking with compared to CIT and PIT. However, to compare countries and types of taxes, these numbers need to be seen in relation to the numbers of taxpayers concerned:

Figure 16: Percentage of taxpayers having undergone an on-site audit by category of taxpayer



Note: The number of active taxpayers is taken from the OECD Tax Administration 2017 report <sup>36</sup>. The data IDs 82750, 82760, 82770 for year 2015. The number of large taxpayers is the number of taxpayers that are managed by the large taxpayer office. It should be noted that there is a small chance that tax administrations might have used another definition of “large” regarding the data of on-site audits than for the number of taxpayers managed by the large taxpayer office. Latvia noted that regarding on-site audits, a large taxpayer was defined as having a turnover greater than 4M EUR. Further, only the data for the year 2015 was available regarding the number of active taxpayers. Nevertheless, in order to be able to compare countries, the average of administrative penalties of the years 2015-2017 was used here, in order to smooth out fluctuations. The numbers are taken from the responses to our survey, as presented in Figure 15 above. For better readability, the number of penalties was multiplied by 100. Thus, the value can be represented like this:

$$\frac{\text{Arithmetic Mean (2015–2017) of number administrative penalties imposed} \times 100}{\text{Number of active taxpayers 2015}}$$

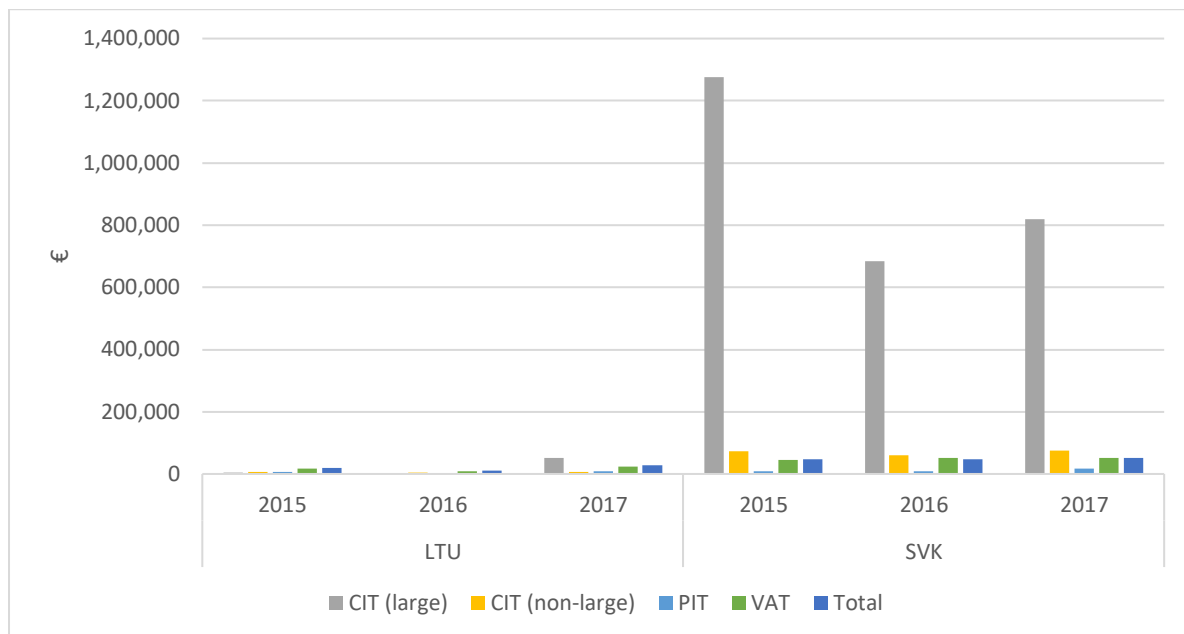
As expected, in Latvia and Lithuania, the percentage of large taxpayers that receive on-site audits with regards to CIT is significantly greater than the share of other types of taxpayers that are audited. It is all the more astonishing that the general percentage of VAT taxpayers that receive an on-site audit is higher in Slovakia than the share of large taxpayers whose corporate income tax declarations are audited through an on-site visit. This shows that the Slovakian tax administration puts definitely a higher emphasis on enforcing compliance with regards to VAT than CIT.

In general, it is remarkable that only 2.4%, 6.4% and 14.3% of large taxpayers are audited with regards to corporate income tax respectively, despite the fact

<sup>36</sup> OECD, *Tax Administration 2017 Annex A: Data Tables*, 141; 158–63.

that the average yield of an on-site audit is significantly higher with regards to corporate income tax by a large taxpayer than from the average taxpayer (visible in Slovakia).

Figure 17: Average audit yield of on-site audits in Slovakia



Figures 18, 19 and 20 finally show that in Portugal, the additional amount of audits collected increased significantly between 2015 and 2017, whereas in Slovakia the amount increased from 2015 to 2016 and decreased again in 2017. In Lithuania the amount decreased. Regarding large taxpayers there was a steady decrease in the amount collected in Slovakia and an increase in Lithuania and Portugal.

Figure 18: Audit yield of on-site audits Lithuania

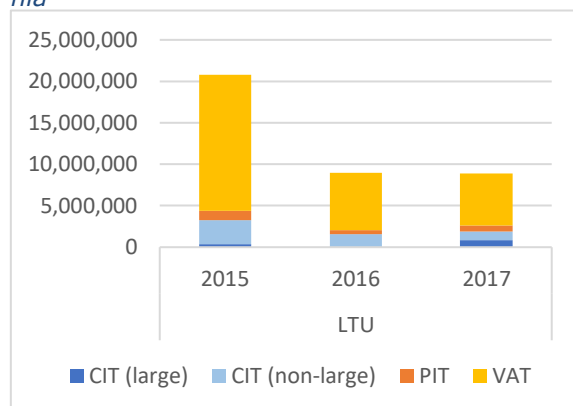


Figure 19: Audit yield of on-site audits Slovakia

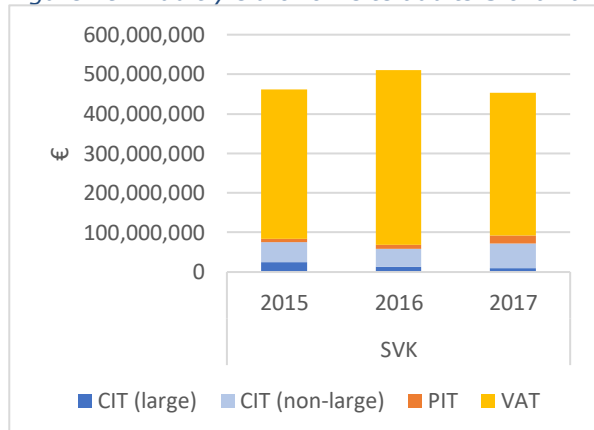




Figure 20: Audit yield of on-site audits in Portugal

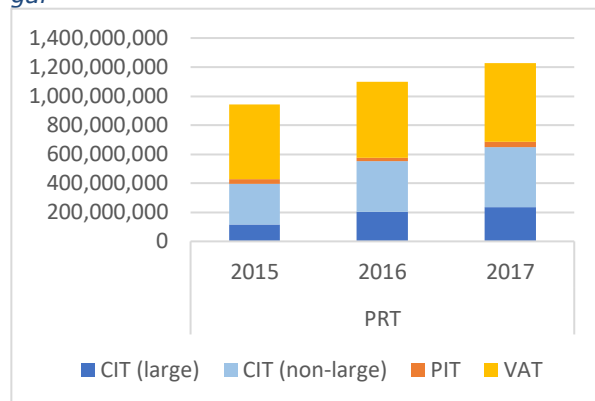
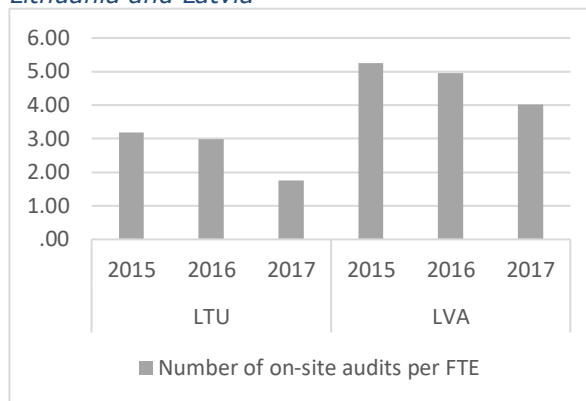


Figure 21: Number of on-site audits per FTE in Lithuania and Latvia



Lithuania and Latvia provided numbers on the staff conducting on-site audits differentiated by type of tax. However, (at least in Latvia) auditors are in fact not organisationally divided according to tax types, as one auditor performs for example both VAT and corporate income tax audits. Therefore, a comparison of the staffing level of different types of taxes is not possible. The total number of staff carrying out on-site audits decreased in Lithuania from 349 in 2015 to 220 in 2017 and from 237 to 220 in Latvia. However, as the total number of on-site audits carried out decreased more, the staffing level per audit (or the number of on-site audits per FTE) increased as depicted in Figure 21. Portugal provided data on the staffing of on-site audits for large CIT taxpayers only, which increased from 59 FTE in 2015 to 82 FTE in 2017.

#### 4.1.3 Summary/Hypotheses

There are important differences between countries regarding the number of desk audits carried out, which should be further explored, including whether these have any consequences on the overall performance of the tax administration.

Concerning audits of tax returns, uncertainties remain with regards to the comparability of the results. Nevertheless, it can be retained that there is a common general trend of a decrease in the percentage of tax returns that are audited by tax administrations, and the decrease occurs across all types of taxes. It is also remarkable that in three of the four country that reported data on that matter, less than 1% of tax returns are generally audited. In subsequent surveys it might be necessary to describe the meaning of the term "audit of tax return" more in detail or to conduct qualitative studies into the differences of auditing practice and if they can indeed be translated into differences in capacity. It might be necessary that with on-going digitisation, tax administrations might cease to

ask for tax returns and rather continually gather data with the help of third parties, so that the term “audit of tax return” might not be appropriate anymore to gather insightful data about the audit activities of tax administrations.

Finally, regarding on-site audits, the comparison of different countries is difficult due to limitations in the data. Nevertheless, it can be noted that the numbers of on-site audits carried out decrease in three countries, whereas in one country one can suppose that it increases (as the yield collected increases). The percentage of on-site that are carried out regarding the corporate income tax of large taxpayers is rather low in all three countries that provided responses if one considers the importance of large taxpayers for revenue generation and the reduction of inequality. The marked differences of jurisdiction’s audit intensity across different types of taxes points to the importance of collecting this data in the future, as these differences might be explained by political interferences stemming from government preferences around inequality or cronyism.

Future research on audit activity should be carried out and strategies to refine questions should be developed. It seems all the more important as a recent investigation by the German federal audit institution revealed that statistics reported by the tax administration were erroneous (due to an incentive of auditors to overreport the number and yield of audits)<sup>37</sup>.

## **4.2 Administrative penalties**

### **4.2.1 Context**

Administrative penalties are civil (usually monetary) penalties imposed on taxpayers for violating laws or regulations. Such penalties are imposed, for example, when taxpayers are late with the submission of their returns or with paying the taxes due, among others, following an audit of the tax administration which resulted in a higher tax payment than that assessed by the taxpayer.

While penalties are not the only means to secure compliance, they can deter the taxpayers from not paying their taxes due: The amount payable will be higher in the end for a taxpayer who chooses not to comply in the first place. However, such threat would not be effective if taxpayers know that penalties are only very rarely imposed and/or that the tax administration undertakes no great efforts in collecting them.

Imposing a low number or a low value of administrative penalties could mean that the tax administration is lacking capacity to detect irregularities on tax pay-

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<sup>37</sup> Spiegel Online, ‘Finanzministerien Schummeln Bei Betriebsprüfungen’, 18 August 2018 <<http://www.spiegel.de/wirtschaft/soziales/bundesfinanzministerium-mit-rechenfehlern-bei-betriebspruefungen-a-1223681.html>> [accessed 20 August 2018].

ments or is too lenient. If only a low share of the penalties imposed are effectively collected this could indicate that the administration lacks capacity or will to properly enforce tax policy.

The OECD also notes that perceived fairness is a potential driver of voluntary tax compliance. One of the relevant dimensions of fairness is “retributive fairness”, which means that tax authority is “fair in the application of punishment when the rules are broken”<sup>38</sup>. With other words, if individuals or entities breaking the rules only face low penalties or if these penalties are actually not collected, this could have a negative impact on taxpayers’ willingness to comply voluntarily.

It is also important to assess the differences in the imposition of penalties differentiated by types of taxes, in order to know whether some types of taxes only receive relatively few or no penalties.

The survey first asked for the numbers and for the value of administrative penalties collected in the years 2015 to 2017 (in total, and for PIT, CIT and VAT). It further asked what percentage of the number of administrative penalties has been collected so far.

#### 4.2.2 Results

The table below shows that 5 countries provided data on the penalties imposed, but only three on the penalties collected.

*Table 3: Responses received - administrative penalties*

	CYP	FIN	LTU	LVA	POL	PRT	SVK
Administrative penalties imposed	No	Partial	Yes	Yes	No	Yes	Yes
Administrative penalties collected	No	Partial	Yes	No	No	Yes	No

#### 4.3.2.a Number of administrative penalties imposed per country (total and for each type of tax)

*Figure 22: Number of administrative penalties: Finland*

*Figure 23: Number of administrative penalties: Lithuania*

<sup>38</sup> OECD, *Understanding and Influencing Taxpayers’ Compliance Behaviour*, 2010 <<http://www.oecd.org/tax/forum-on-tax-administration/publications-and-products/compliance/46274793.pdf>> [accessed 6 August 2018].

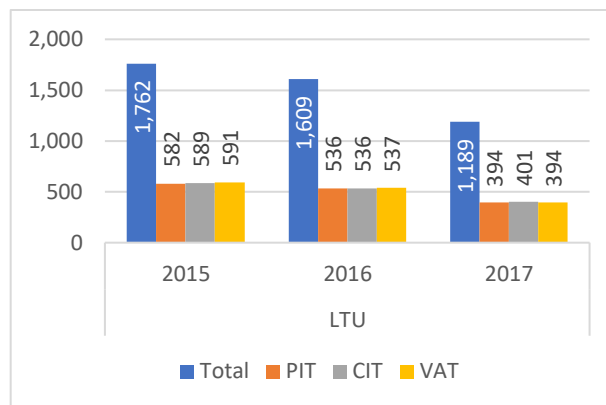
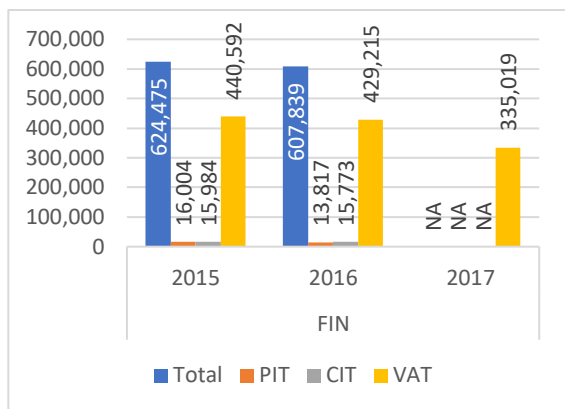


Figure 24: Number of administrative penalties: Latvia<sup>39</sup>

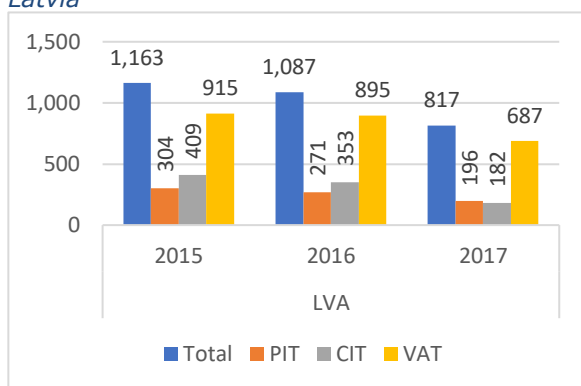


Figure 25: Number of administrative penalties: Portugal

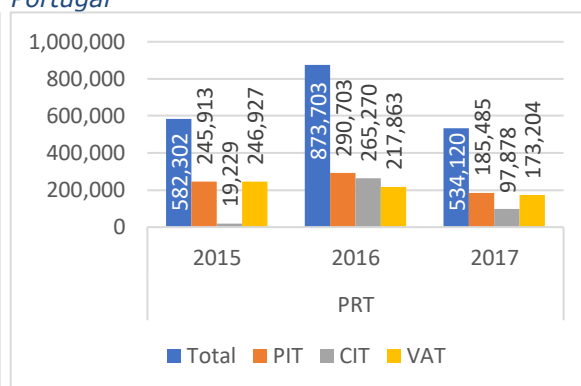
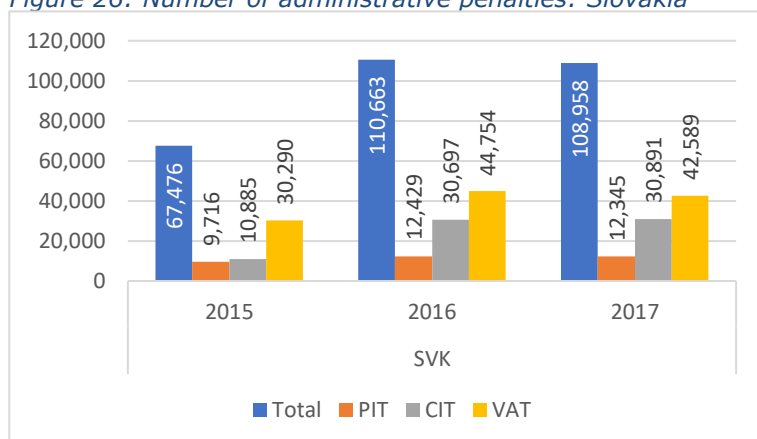


Figure 26: Number of administrative penalties: Slovakia



Note: In Slovakia, the administrative penalties regarding PIT only relate to income tax of businesses (entrepreneurs and legal persons).

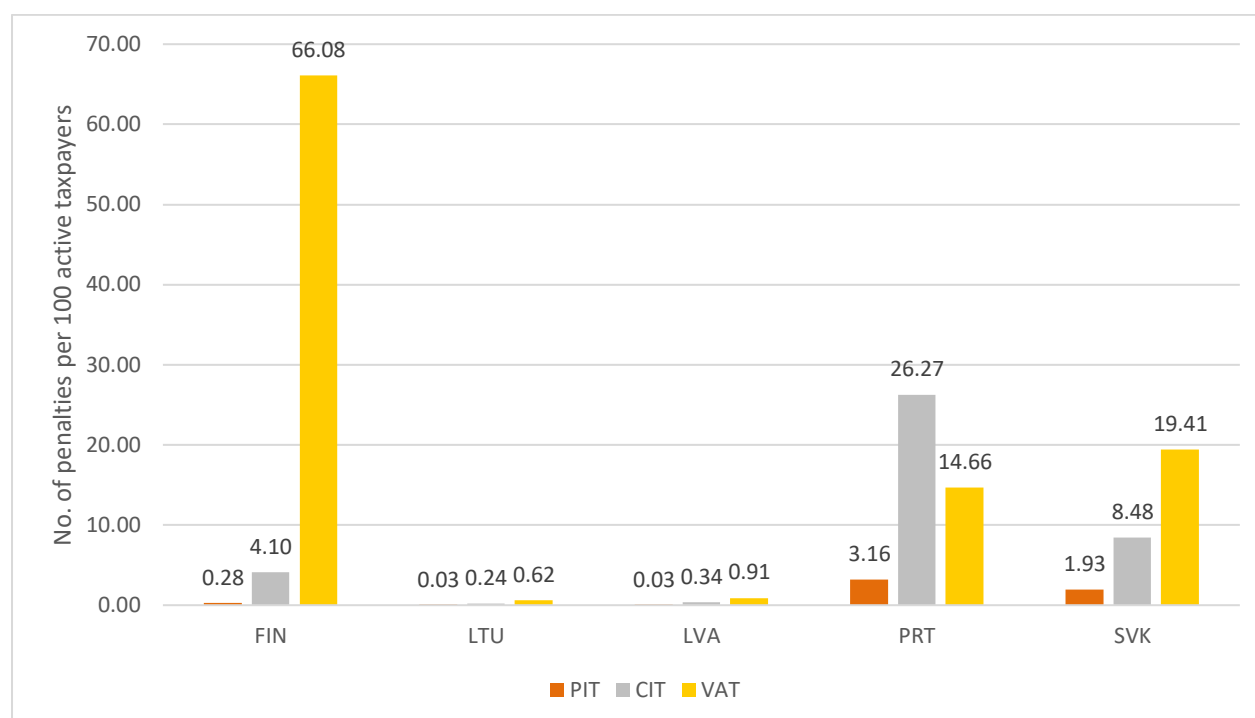
<sup>39</sup> The total number of penalties is always lower than the sum of PIT+CIT+VAT in Latvia, which might indicate that penalties are sometimes imposed with regards to several types of taxes at once.

The figures above report for each country how the imposition of administrative penalties evolved over the years and for which kind of taxes most penalties were imposed. It is important to note in the graphs above that the scales are very different: While the total number of penalties imposed was more than 600,000 in Finland, it was only about 1,200 in Latvia. Due to these great differences in scale, it was not possible to present all countries together in one graph.

The total number of administrative penalties imposed decreased in Lithuania and Latvia between 2015 and 2017. In Slovakia, the total number increased between 2015 and 2016 and remained stable in 2017. In Portugal, the number increased from 2015 to 2016 (especially due to an increase in penalties imposed with regards to CIT), but decreased again from 2016 to 2017. For Finland, no total number of penalties imposed was available for 2017, nor were the data for CIT and PIT for that year. However, from the numbers available for penalties imposed with regards to VAT, and the trends that can be seen for CIT and PIT in 2015-2016, it is likely to assume that the total number also decreased between 2016 and 2017. In all four countries, most administrative penalties are imposed with regards to VAT.

However, these differences probably arise in part due to a difference in the number of active taxpayers that are managed by the jurisdiction's tax administration. The following graph therefore displays the number of penalties that are imposed by each country for each type of tax in relation to the number of active taxpayers registered for each type of tax.

Figure 27: Number of administrative penalties imposed per 100 active taxpayers



Note: The number of active taxpayers is taken from the OECD Tax Administration 2017 report <sup>40</sup>. The data IDs 82750, 82760, 82770 for year 2015. Only the data for the year 2015 was available regarding the number of active taxpayers. Nevertheless, in order to be able to compare countries, the average of administrative penalties of the years 2015–2017 was used here, in order to smooth out fluctuations. The numbers are taken from the responses to our survey, as presented in Figures 22–26 above. For better readability, the number of penalties was multiplied by 100. Thus, the value can be represented like this:

$$\frac{\text{Arithmetic Mean (2015–2017) of number administrative penalties imposed} \times 100}{\text{Number of active taxpayers 2015}}$$

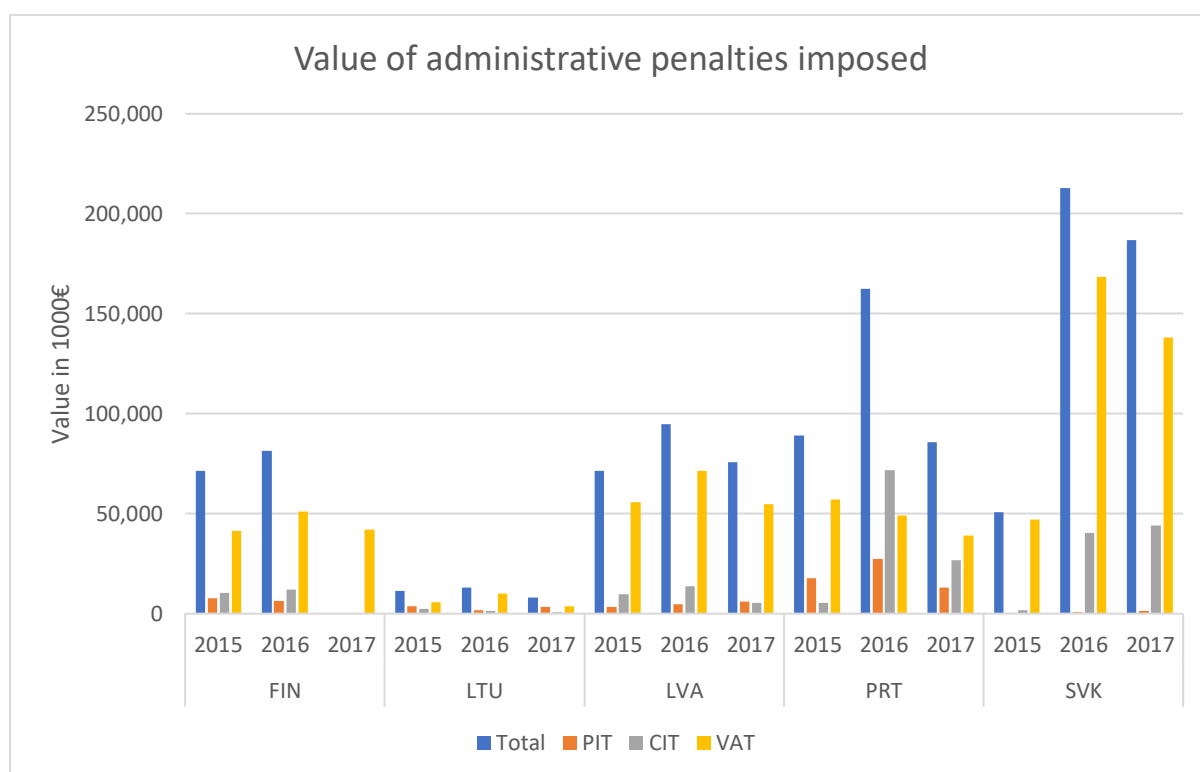
Figure 27 still shows large differences in the frequency of imposition of penalties. While Finland imposed penalties on almost two thirds of all VAT taxpayers Lithuania and Latvia generally imposed penalties on less than 1 in 100 taxpayers. In Finland, it is interesting to see, that there is a great difference in the number of penalties imposed on VAT and PIT taxpayers. With the exception of Portugal, all countries impose the highest number of penalties with regards to VAT, in relation to the number of taxpayers.

#### 4.3.2.b The value of administrative penalties imposed

Alongside the number of penalties imposed, the value of administrative penalties also matters to have an indication of the tax authorities' enforcement powers (e.g. if there is an indication that the value of penalties is very low, then it may indicate that their deterrence effect on tax payers is rather low).

<sup>40</sup> OECD, *Tax Administration 2017 Annex A: Data Tables*, 158–63.

Figure 28: Value of administrative penalties imposed

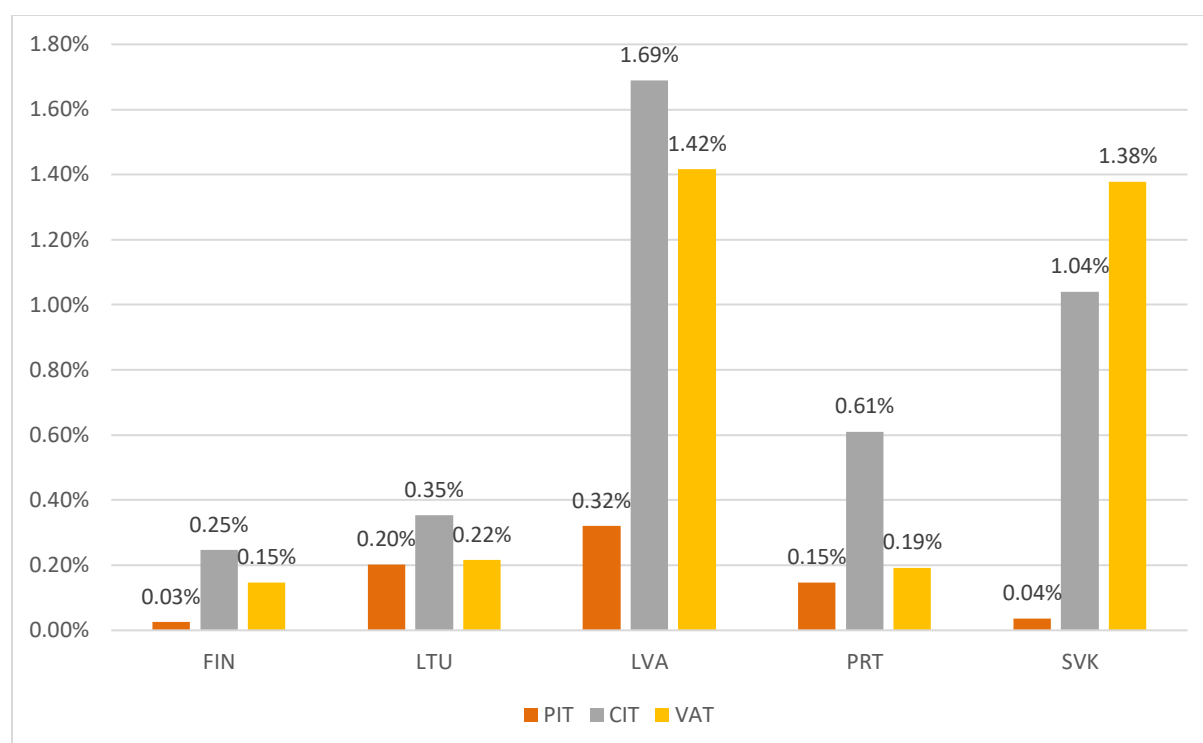


Note: In Slovakia, the value of administrative penalties relating to PIT only includes tax on income from business (entrepreneurs and legal persons).

In all countries, the total value of penalties imposed increased between 2015 and 2016 but decreased again in 2017. In Slovakia the rise is particularly important. In terms of tax types, the value imposed is highest with regards to VAT for all jurisdictions (one exception is the year 2016 in Portugal, where most penalties were imposed with regards to CIT).

However, to be able to compare countries and tax types with each other, it is necessary to compare the imposition of penalties with the tax revenues raised in each country and for each type of tax, as done in the following graph:

Figure 29: Value of administrative penalties imposed as percentage of tax revenue collected – comparing countries and taxes



Note: Data on tax revenue collected was taken from <sup>41</sup>, variables individual taxation, corporate taxation and indirect taxation for the year 2015 (general government); Data is only available for the year 2015, but to smooth out fluctuations it was compared with the arithmetic mean (average) values of administrative penalties collected for the years 2015 to 2017.

*Mean (2015 – 2017) of value of administrative penalties imposed for PIT; CIT; VAT*  
*PIT, CIT, VAT tax revenue collected in 2015*

This figure displays a different image than figure 27 which compared the number of administrative penalties imposed. While in comparison to the other countries, Finland imposed a high number of penalties, these are of rather low value compared to tax revenue collected. Latvia on the other hand imposes a rather low number but the penalties imposed have a high value.

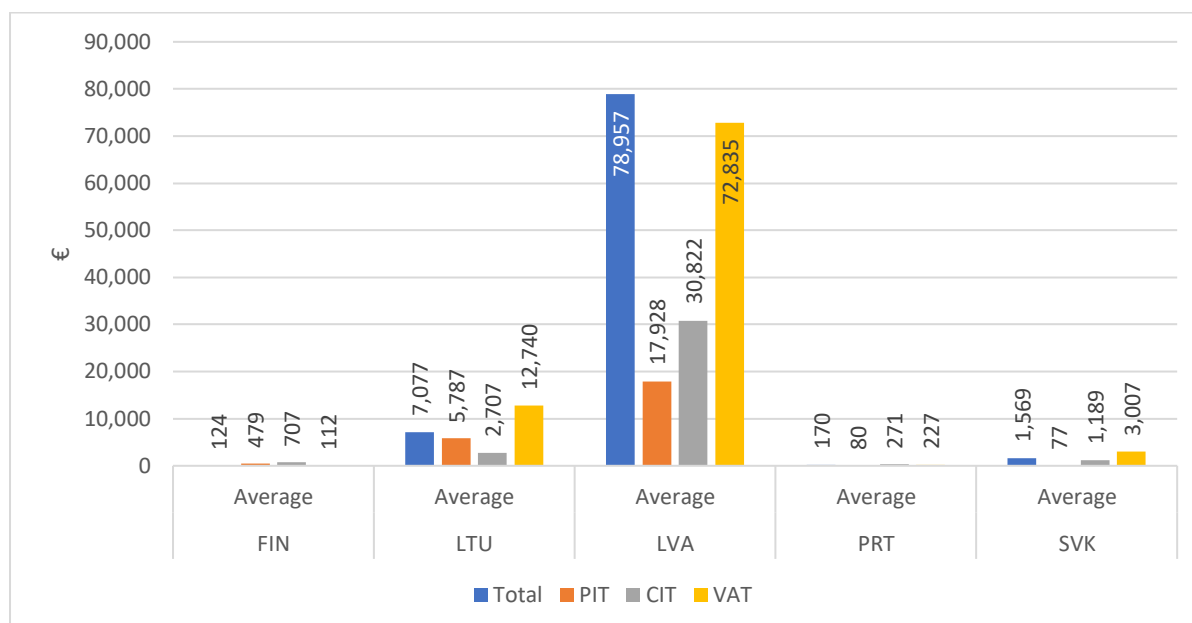
In terms of the focus, this figure gives a different image than the previous one as well. In all countries except Slovakia the imposed value of penalties compared to the importance of the tax type in the tax mix is highest with regards to CIT. Compared to its relative importance in the tax mix, the lowest value of penalties is imposed with regards to PIT everywhere.

The following graph explains why the rankings of countries are so different if the number or the value of penalties imposed is compared:

<sup>41</sup> ICTD/UNU-WIDER, 'Government Revenue Dataset, Version November 2017', 2017 <<https://www.wider.unu.edu/project/government-revenue-dataset>> [accessed 9 July 2018].



Figure 30: Average values of administrative penalties imposed (2015-2017)



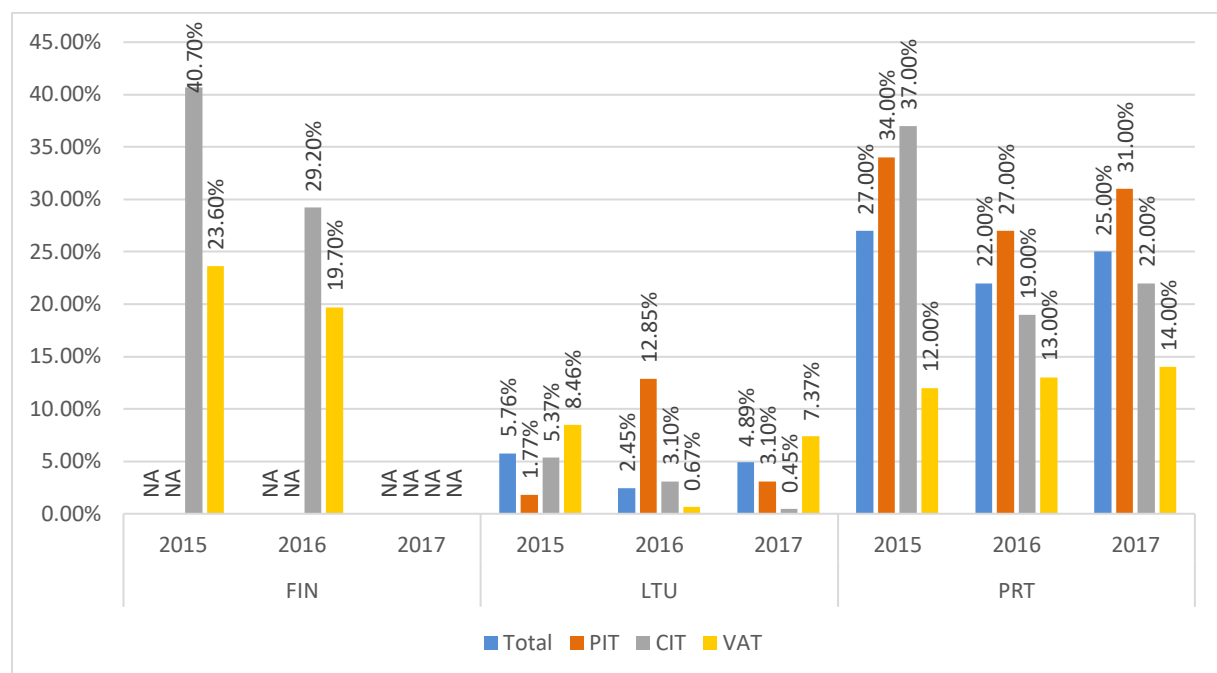
Note: Calculation based on the sum of the value of penalties imposed for the years 2015-2017 divided by the sum of the number of penalties imposed for the years 2015-2017, for each country and each type of tax.

Administrative penalties imposed are on average of much greater value in Latvia (between about 18,000 EUR to about 79,000 EUR depending on the type of tax) than in all other countries. In Portugal and Finland, penalties are worth only several hundred euros on average. This could point to a totally different practice of imposing penalties in Latvia than in other countries.

#### 4.3.2.c Percentage of administrative penalties collected so far

Equally interesting to the number and value of administrative penalties *imposed* is the number of these penalties actually *collected* so far:

Figure 31: Percentage of number of administrative penalties collected so far



Note: For Finland, data on collection of penalties concerning PIT and on total collection were not available; and for the year 2017, no data was available.

The data provided by the three countries indicates that only a rather low share of administrative penalties is effectively collected (nowhere more than 40%, in Lithuania not more than 6% in total). There seems to be a decreasing trend, but this could be explained by the fact that it might take more than a year to collect penalties and thus fewer recently imposed penalties have been collected than older ones.

There are no clear patterns detectable as for which type of tax data is more easily collected, except that in Finland and Portugal it seems to be more difficult to collect penalties imposed with regards to VAT than concerning other taxes.

#### 4.2.3 Summary/Hypotheses

The analysis shows that no clear time trend is detectable regarding the number of administrative penalties imposed, but that there are important differences between countries. There are equally important differences between countries regarding the value of penalties, but the “ranking” of countries is different here, as the average value of penalties varies a lot between countries.

However, as stated above this evidence is not in itself conclusive without further comparison with other data, as a low number or a low value of administrative penalties may also mean that taxpayers are more compliant or that it is generally easier to comply with tax laws.

Regarding the value of penalties imposed, the trend is not clear. As shown above, in 2016 higher penalties were imposed than in 2015, but this trend did not continue in 2017.

The percentage of administrative penalties that is actually collected is providing a more conclusive finding, as it shows how capable the tax administration is to enforce its own regulations. Neither of the three countries that reported data succeeded in collecting more than 50 per cent of the penalties that were charged in any of the years. This low percentage of collected penalties raises important questions and points to an important data gap in existing official data. The fact that the other respondents did not or could not report data on this topic might also point to a lack of a proper enforcement management system.

## **4.3 Prosecutions**

### **4.3.1 Context**

A tax administration might refer cases for criminal prosecution if it concludes after an audit that the taxpayer has illegally reduced the payable tax, i.e. evaded tax on purpose, e.g. by not reporting parts of income s/he received. Other cases might include criminal attacks on the tax system, such as for example the “Missing Trader Fraud” or the “VAT carousel”, where traders claim refunds of VAT payments that have actually never taken place <sup>42</sup>.

Pursuing such cases is necessary to adequately punish behaviour that is detrimental to society and to deter taxpayers from committing such offences. With regards to inequality, criminal prosecutions are likely to have a higher deterrent effect than administrative penalties, as tax dodgers cannot simply weigh civil penalties against ‘tax savings’, but may confront prison terms.<sup>^</sup>

As with administrative penalties, it is important to differentiate for which types of taxes prosecutions are initiated, so that it is possible to know whether any type is left out from prosecution activity.

Further, it is important to consider that a low percentage of finalized cases might point to a lack of means to collect the evidence necessary to successfully pursue cases or alternatively to a lack of willingness to enforce compliance.

The questionnaire therefore asked for the number of tax investigations that were referred for criminal investigations (total and concerning PIT, CIT and VAT separately) and how many of these cases have been finalized through criminal prosecution.

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<sup>42</sup> Reuters, ‘FACTBOX - How Carousel Fraud Works’, 2009 <<https://uk.reuters.com/article/uk-carousel-fraud-britain-factbox-sb-idUKTRE57J43U20090820>> [accessed 19 July 2018].

### 4.3.2 Results

Only three countries reported data on criminal prosecutions: Poland, Latvia and Portugal.

Table 4: Responses received - Prosecutions

	CYP	FIN	LTU	LVA	POL	PRT	SVK
Prosecutions	No	No	No	Partial	Partial	Yes	No

Figure 32: Number of tax investigations referred for criminal prosecution and finalised cases: Poland

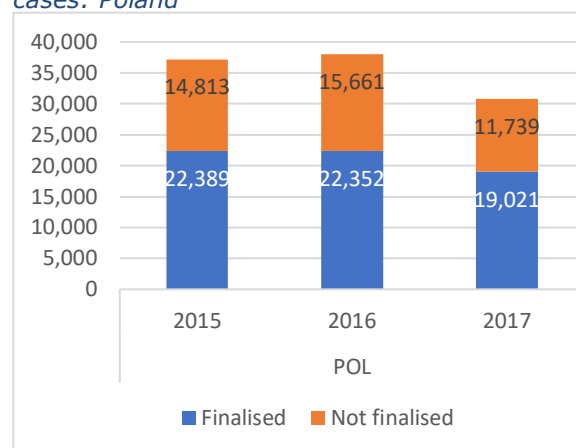


Figure 33: Number of tax investigations referred for criminal prosecution and finalised cases: Latvia

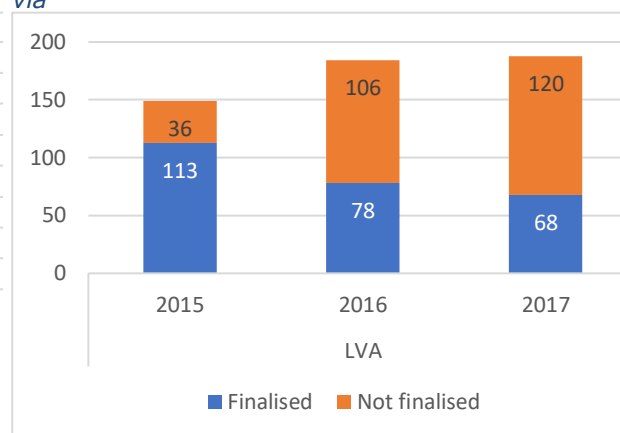
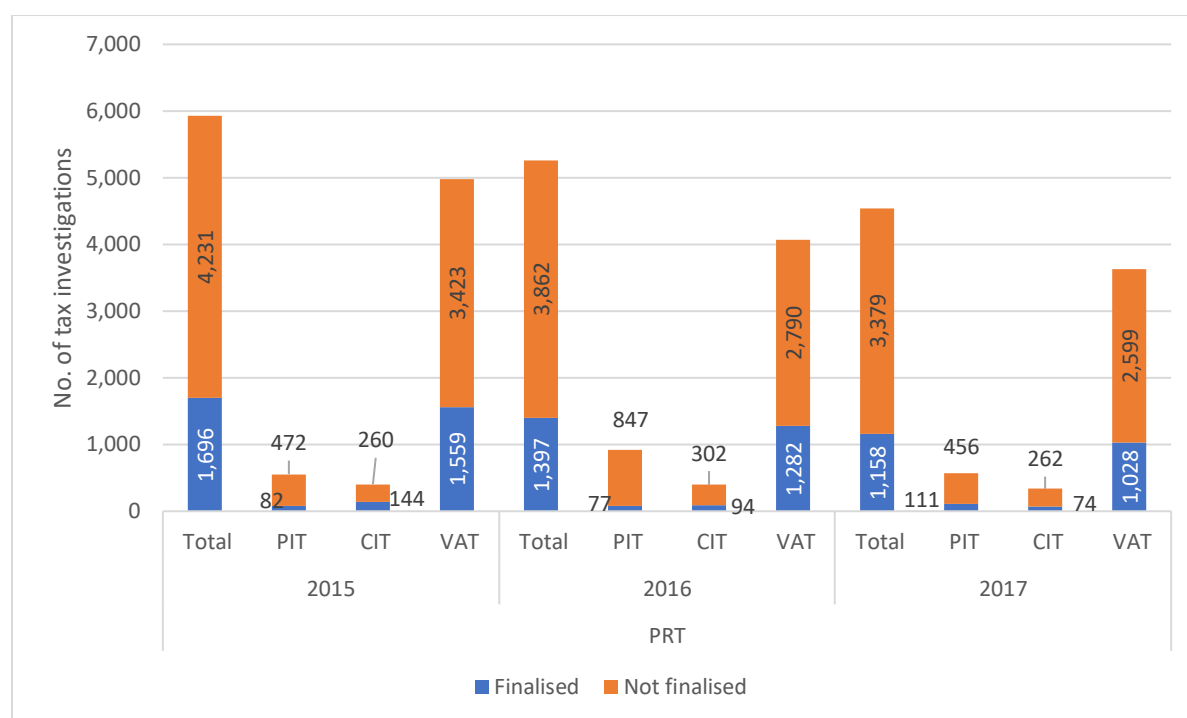


Figure 34: Number of tax investigations referred for criminal prosecution and no. of finalised cases by tax type: Portugal



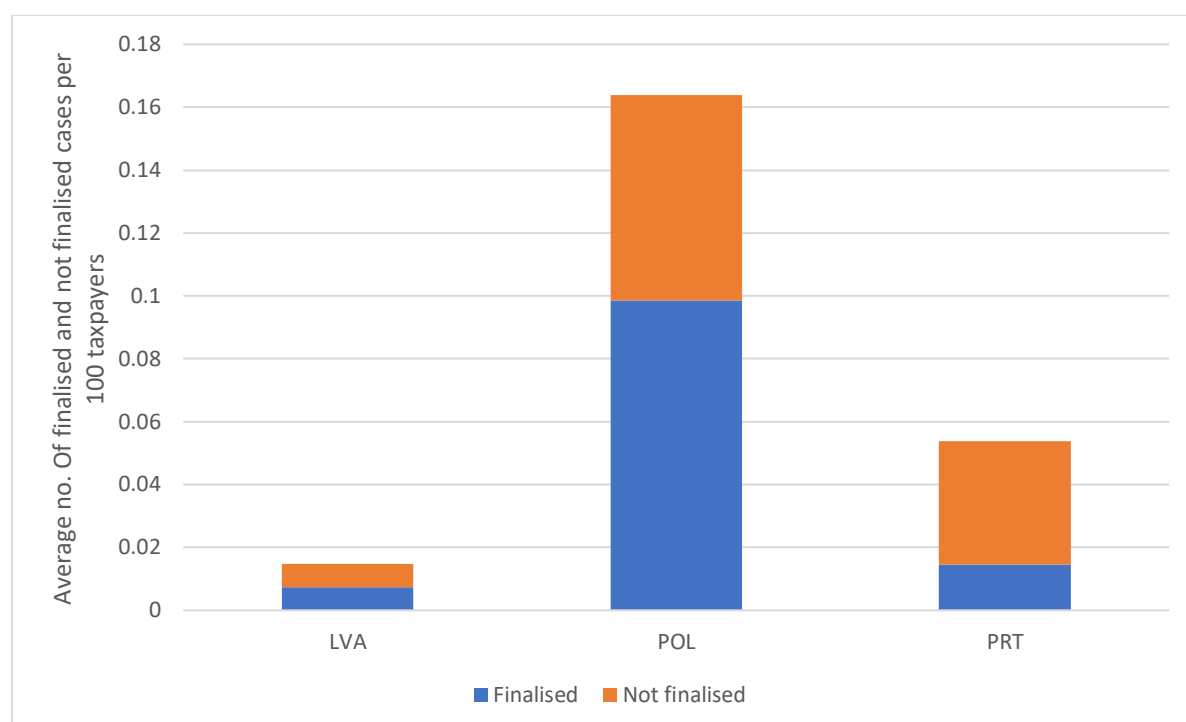
Note: In Portugal, a criminal investigation process may contain offences of several tax codes (PIT, CIT and VAT). Thus, the numbers presented with regards to PIT, can also be accounted simultaneously in the category CIT or VAT, according to the taxes considered in the process.

The three figures above show that in Poland and Portugal, the number of investigations referred for criminal prosecutions decreased from 2015 to 2017, while in Latvia the number increased.

Portugal also reported data that is differentiated by type of tax: It is interesting that by far the highest share of all criminal prosecutions are related to VAT rather than to CIT or PIT. However, for all types of tax, only less than 30% of investigations referred for criminal prosecutions have been finalized so far.

Similar to the case of administrative penalties, there are important differences between countries regarding the number of cases referred for criminal prosecution. The following graph therefore compares the practice of referring cases for criminal prosecution between countries by assessing how many cases were referred per 100 taxpayers.

Figure 35: Average no. of cases referred for criminal prosecution and average number of finalised cases (2015-2017) per 100 active taxpayers (2015) - comparing countries



Note: Number of active taxpayers is taken from the OECD Tax Administration 2017 report<sup>43</sup>. The data IDs 82750, 82760, 82770, 82780 for year 2015. The total number is calculated as the sum of the number of active VAT, PIT, CIT and withholding taxpayers<sup>44</sup>. Number of cases referred is the average of the years 2015-2017, as shown in figures above.

$$\frac{\text{Mean (2015 – 2017) of value of total number of cases referred for criminal prosecution}}{\text{Number of taxpayers (PIT + CIT + VAT + withholding tax) in 2015}}$$

For Latvia and Portugal this echoes the findings of the above chapter on administrative penalties, where Latvia imposed relatively few penalties and Portugal comparatively more (on Poland, there was no data on penalties available).

### 4.3.3 Summary/Hypotheses

There are important differences between countries regarding the practice of criminal prosecution. One country shows that most criminal prosecutions involve the Value Added Tax.

From the cases initiated during the last three years, only few have been finalised so far. This, however, could also have multiple reasons, related to administrative capacity or not. It could, for example, be due to a lack of powers to gather necessary evidence, but also to a lack of capacity of the court system. It would be

<sup>43</sup> OECD, *Tax Administration 2017 Annex A: Data Tables*, 158–63.

<sup>44</sup> Representing the total number of taxpayers as sum of the 4 numbers of taxpayers for each of these 4 types of taxes might be problematic, as there might be other types of taxes or one taxpayer might be registered for several types. However, it is the best approach available from the data we dispose of.

interesting in subsequent research to further investigate, why so few cases are finalised, how many prosecutions are in the end successful and what the reasons for failure are. There is also a need gather more precise data on the cases involved in order to make a more precise argument on the role of criminal prosecutions for inequality: On what kind of tax has the fraud been committed? Who are the taxpayers involved? What monetary value do the cases have?

## **4.4 Whistleblower protection and reward**

### **4.4.1 Context**

A culture of integrity within the tax administration is necessary so that it correctly fulfils its mission. To maintain such a culture, organisational safeguards can help shielding the tax administration from non-compliance or corrupt practices, especially in higher management. One such safeguard is the protection of whistleblowers, who publicly denounce unlawful practices that take place in an organization, often on the public's account. Without the assistance of whistleblowers, illegal practices in organizations may remain unknown/silent and cause damage to the society. An example of a disclosure of concerning practices in a tax administration is the case of Antoine Deltour who used to work for PriceWaterhouseCoopers (PWC) and revealed tax rulings concluded between multinational companies (MNCs) and the Luxembourgish tax authority. These tax rulings enabled MNCs to avoid huge sums of taxes due in other countries across the world. The disclosure of the information by Deltour (also known as LuxLeaks<sup>45</sup>) has led to widespread criticism on these rulings and had political consequences: The European Commission used the data to investigate whether the ruling constituted illegal state aid granted by Luxembourg, forcing Luxembourg in some cases to recover taxes due from multinationals such as Engie, Amazon, Fiat and McDonald's<sup>46</sup>. Pressured by the European Parliament, the European Commission subsequently proposed the automatic exchange of tax rulings between tax authorities adopted in 2015<sup>47</sup>.

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<sup>45</sup> See <https://www.icij.org/investigations/luxembourg-leaks/>

<sup>46</sup> Julie Martin, 'More Tax Rulings under EU Scrutiny for Illegal State Aid, Vestager Says', *MNE Tax*, 2016 <<https://mnetax.com/transfer-pricing-state-aid-vestager-rulings-14421>> [accessed 23 July 2018]; European Commission, 'State Aid - Tax Rulings', 2018 <[http://ec.europa.eu/competition/state\\_aid/tax\\_rulings/index\\_en.html](http://ec.europa.eu/competition/state_aid/tax_rulings/index_en.html)> [accessed 8 August 2018].

<sup>47</sup> European Parliament, 'MEPs Call for Tax Harmonisation and Transparency on National Tax Rulings in "Lux Leaks" Debate', 2014 <<http://www.europarl.europa.eu/news/en/headlines/priorities/taxes/20141112IPR78502/meps-call-for-tax-harmonisation-and-transparency-in-lux-leaks-debate>> [accessed 23 July 2018].

Laws that impose criminal sanctions on whistleblowers intimidate and silence those who identify dubious or illegal activities by employees or other taxpayers. While it is important that regulations preventing the disclosure of confidential information exist, it is equally necessary to ensure effective legal protection for whistleblowers who reveal information of public concern ensuring the integrity of administrations or companies on behalf of the jurisdictions' citizens and for the organizations' own sake.

A report by Transparency International from 2013 focused on whistleblower protection laws in 27 EU member states and found that only four countries had legal provisions that could be called advanced <sup>48</sup>. Another report on G20 countries published in 2014, analysed the state of whistleblower protection rules in each of the G20 countries in both the public and private sectors. The report found important shortcomings which referred to several issues including the existence of anonymous channels for employees to discreetly report sensitive information, independent agencies to investigate whistleblowers' disclosures and complaints, and transparent and accountable enforcement of whistleblower laws <sup>49</sup>.

In its tax policy report 2017, the European Commission joined these voices and recommended the establishment of regulations protecting whistleblowers in order to improve compliance within tax administrations <sup>50</sup>.

With regards to whistleblower protection, our survey included the following 4 questions:

1. Does the jurisdiction offer specific legal protection for whistleblowers?
2. Were there any cases where serious violations of the law were revealed as a result of whistleblowers who were tax administration's staff?
3. Are whistleblowers at the tax administration exposed to prison terms for breaching confidentiality laws or contracts?
4. Were there any cases in the past where whistleblowers were sanctioned (e.g. fired or imprisoned) for divulging or publicly disclosing confidential information?

#### **4.4.2 Results**

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<sup>48</sup> Transparency International, *Whistleblowing in Europe: Legal Protections for Whistleblowers in the EU*, 2013, 5 <[http://files.transparency.org/content/download/697/2995/file/2013\\_WhistleblowingInEurope\\_EN.pdf](http://files.transparency.org/content/download/697/2995/file/2013_WhistleblowingInEurope_EN.pdf)>.

<sup>49</sup> Simon Wolfe and others, *Whistleblower Protection Laws in G20 Countries*, 2014, 1–2 <[http://www.transparency.org.au/wp-content/uploads/2014/09/FINAL\\_-\\_Whistleblower-Protection-Laws-in-G20-Countries-Priorities-for\\_-\\_Action.pdf](http://www.transparency.org.au/wp-content/uploads/2014/09/FINAL_-_Whistleblower-Protection-Laws-in-G20-Countries-Priorities-for_-_Action.pdf)> [accessed 9 July 2018].

<sup>50</sup> European Commission, *Tax Policies in the European Union. 2017 Survey*, 89.



Table 5: Responses received - whistleblower protection and reward

	CYP	FIN	LTU	LVA	POL	PRT	SVK
Whistleblower protection	Yes	Yes	No	Yes	Yes	Partial	No

Figure 36: Specific legal protection for whistleblowers

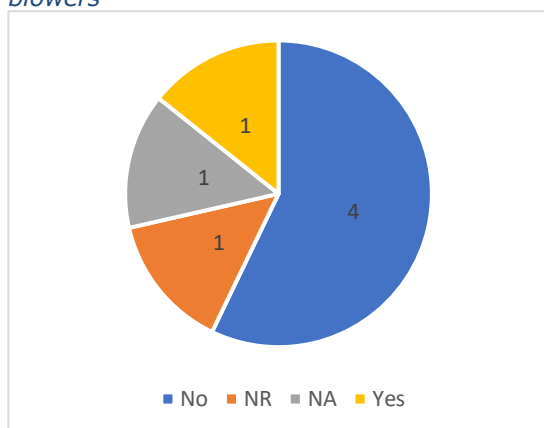


Figure 37: Cases of serious violation of the law revealed by whistleblowers

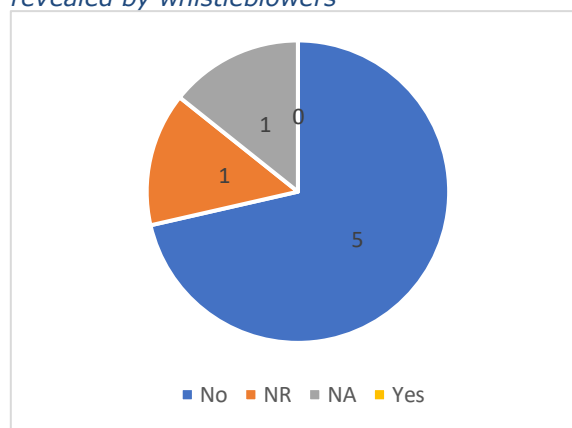


Figure 38: Possibility of prison terms for whistleblowers at the tax administrations

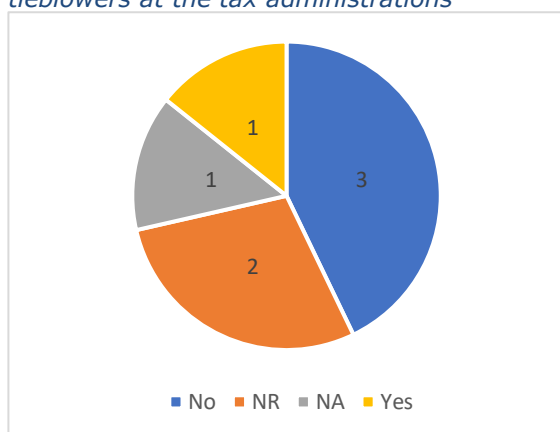
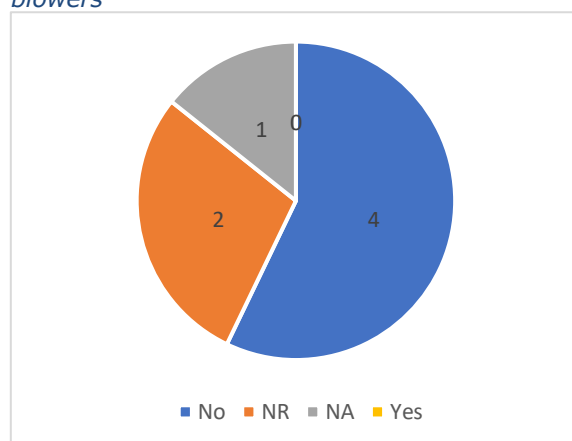


Figure 39: Past cases of sanctions for whistleblowers



Note: The numbers are the number of countries. NR= jurisdiction did not respond; NA = country responded that data is not available; "Yes" is not a "full yes", see explanation below

3 jurisdictions (Cyprus, Finland and Latvia) responded "No" to all 4 questions meaning they don't provide whistleblowers protection, and 2 jurisdictions (Lithuania and Slovak Republic) did not respond. Portugal responded "No" to the first two questions, (i.e. they don't provide whistleblowers protection and there were no cases of serious violation as a result of a disclosure by whistleblowers) and did not respond to the last two questions. Poland responded "yes" to the question on whistleblower protection, however this is not a "full yes" as the response does not specifically relate to whistleblowers. This is the full note provided by the Polish tax authority: "There are not any specific regulations dedicated to the pro-

tection of whistleblowers. Under the Polish law employees are only generally protected against negative consequences related to the fact he or she revealed information concerning unlawful actions.” But Poland also responded with regards to the question on possible sanctions for whistleblowers that “the provisions of article 265 and 266 of the Polish Penal Code constitute a legal penal consequence for revealing confidential information.” This points to a possibility of conflicting legal provisions regarding whistleblowers.

#### **4.4.3 Summary/Hypotheses**

The evidence collected in this survey on tax administration echoes the findings of the above-mentioned reports on whistleblower laws in the EU. Of the countries surveyed, only one reported that some kind of legal protection existed, which at the same time might be weakened by another conflicting legal provision that threatens people with penalties for revealing confidential information. All other countries do not seem to have any protection for whistleblowers in place.

The fact that no past cases of whistleblowers were reported in any jurisdiction might be due to a lack of protecting regulations. It could, however, just as well mean that there have not been any cases of unlawful actions within the tax administrations – an interpretation which appears questionable considering the substantial number of cases identified for example in Germany <sup>51</sup>.

### **4.5 Staff mobility between public and private sector**

#### **4.5.1 Context**

When regulators and regulated individuals or entities are too closely related to each other, and regulators are influenced to a high degree by the stakeholders they need to regulate, there is a risk of “regulatory capture”. Even if no outright corruption or direct lobby activities take place, a shared culture and adherence to the same ideology between tax administration staff and the companies they audit could already lead to ineffective regulation. One way such influence is exercised is through so-called “revolving doors”. The term refers to the practice that along their careers individuals move back and forth between public offices and roles in private firms or organizations in the same sector. The practice has taken place in many places around the world, including the EU Commission, where former commissioner Barroso joined the investment bank Goldman Sachs, and the US, where Federal Reserve and Treasury officials are frequently recruited from Wall

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<sup>51</sup> Meinzer, *Steueroase Deutschland. Warum Bei Uns Viele Reiche Keine Steuern Zahlen*, 186–235.

Street<sup>52</sup>. Among others, this practice has contributed to the financial crisis of 2007/8, as due to personal proximity, financial institutes from Wall Street succeeded in convincing high officials of the Bush administration that they properly managed the risks inherent in the financial instruments that eventually led to the collapse of big banks<sup>53</sup>. In the United States, which is considered as one of the top financial secrecy jurisdictions<sup>54</sup>, senior staff of the Congress committees responsible for drafting tax laws have formerly lobbied for favourable tax laws or special treatment on behalf of large corporate groups<sup>55</sup>.

In a recently published research by the Corporate Europe Observatory, it turned out that one third of the people who occupied top positions during the period 2008-2017 in the Directorate-General for Financial Stability, Financial Services and Capital Markets Union at the European Commission either came from the financial industry or moved to work there after working at the commission<sup>56</sup>.

If officials have the perspective of joining institutions they regulate after they quit their office or if due to a former long employment at a regulated entity they are still loyal to former colleagues, they might not have the incentive to properly enforce regulation. In tax administration, the risks are particularly pronounced in the divisions responsible for the audits of large companies because of the high sums involved in audit, the high salaries on offer by the private sector, and because often onsite auditors spend considerable time, sometimes even years, at the premises of the audited companies<sup>57</sup>. At the same, these auditors have access to privileged information and to tax audit tactics, which they can monetise in the audited firms after switching to the private sector. In Germany, for instance, tax advisor Hanno Berger, against whom a criminal investigation is running due to his involvement in the so-called "cum-ex"-scandal<sup>58</sup>, used to work as auditor for the tax office of Frankfurt/Main before joining the private sector<sup>59</sup>.

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<sup>52</sup> Transparency International EU, *Access All Areas. When EU Politicians Became Lobbyists*, 2017 <transparency.eu/wp-content/uploads/2017/01/Access-all-areas.pdf> [accessed 12 July 2018]; Simon Johnson, 'The Quiet Coup', *The Atlantic*, 2009 <<https://www.theatlantic.com/magazine/archive/2009/05/the-quiet-coup/307364/>> [accessed 11 July 2018].

<sup>53</sup> Johnson, 'The Quiet Coup'.

<sup>54</sup> See [www.financialsecrecyindex.com](http://www.financialsecrecyindex.com); 16.8.2018.

<sup>55</sup> Lee Fang, 'Former Tax Lobbyists Are Writing the Rules on Tax Dodging', *The Intercept*, 2016 <<https://theintercept.com/2016/04/27/congress-tax-lobbyists/>> [accessed 6 August 2018].

<sup>56</sup> Corporate Europe Observatory, *Financial Regulators and the Private Sector: Permanent Revolving Door at DG FISMA*, 2018 <<https://corporateeurope.org/power-lobbies-revolving-doors/2018/04/financial-regulators-and-private-sector-permanent-revolving>> [accessed 6 August 2018].

<sup>57</sup> Meinzer, *Steueroase Deutschland. Warum Bei Uns Viele Reiche Keine Steuern Zahlen*, 235–62.

<sup>58</sup> "Cum-/Ex" refers to the practice of dividend stripping, see for example Paul Blickle and others, 'The Multibillion Euro Theft', *Zeit Online*, 8 June 2017 <<https://www.zeit.de/wirtschaft/2017-06/cum-ex-scandal-tax-eva-sion-dividend-stripping-germany>> [accessed 20 August 2018].

<sup>59</sup> Meinzer, *Steueroase Deutschland. Warum Bei Uns Viele Reiche Keine Steuern Zahlen*.

To alleviate this type of detrimental effects of role-switching, many jurisdictions have put in place laws that prescribe so-called “cooling off”-periods, i.e. timespans during which public officials may not work with entities they previously regulated. However, these laws are not effective if they contain loopholes, breaches can only be penalized with weak sanctions or if these sanctions are in practice never applied.

One of the factors that may also prevent a high frequency of “revolving doors” is a high share of employees with a permanent contract and high share of civil servants. Most countries have laws that can confer a special status, the status of civil servant, to employees of government. In general, civil servants enjoy a range of benefits, e.g. more job security than in the private sector, but also have a contractual duty to serve the public <sup>60</sup>.

To find out more about the effects of the revolving door phenomenon, our survey first asked for the total numbers of staff who left working for the private sector and to break down the numbers by civil servants who left. It further asked for legal restrictions such as cooling-off periods for staff leaving to work for the private sector, for the sanctions that apply in case of violation of these restrictions as well as for past cases of violation. Similar questions were also asked with regards to specific units within the tax administration, namely the large taxpayer office and the High Net Worth Individuals unit. These will be presented in specific subsequent chapters.

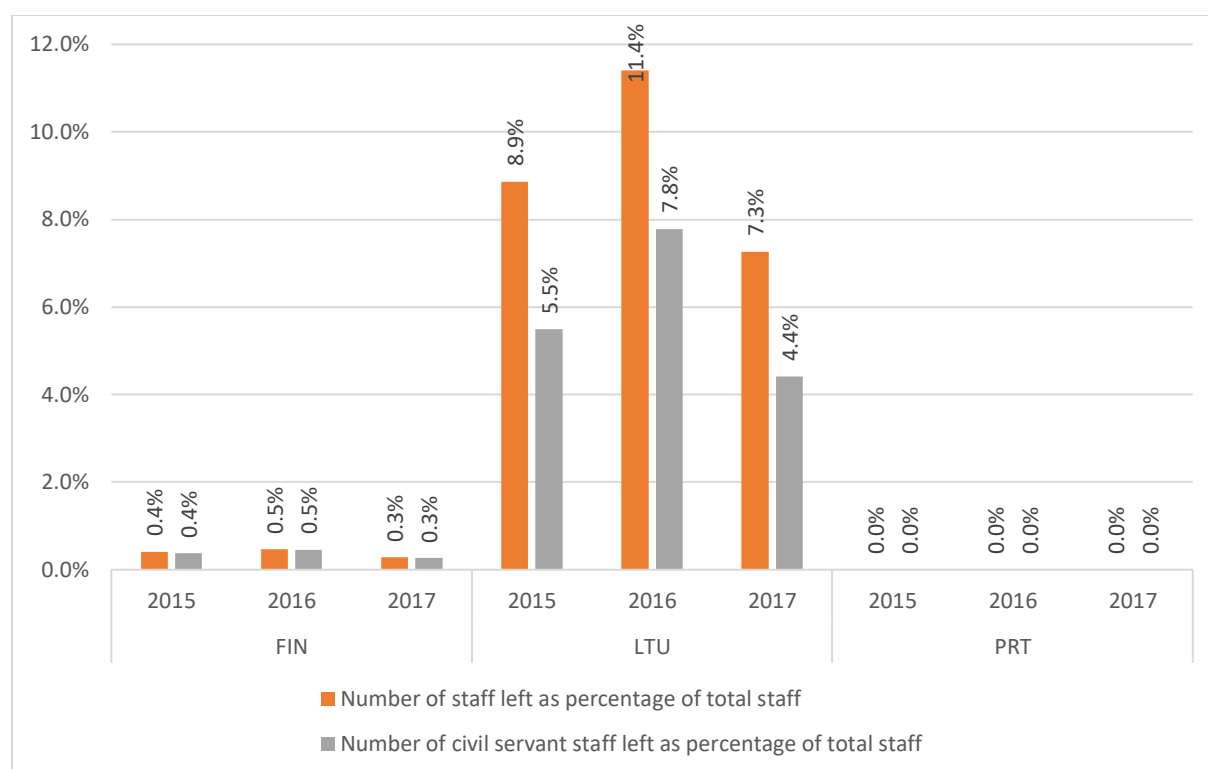
## 4.5.2 Results

*Table 6: Responses received - staff mobility*

	CYP	FIN	LTU	LVA	POL	PRT	SVK
Staff mobility	Partial	Partial	Partial	Partial	Partial	Partial	No

<sup>60</sup> Staffan Synnerstrom and others, ‘Who and What Is a “Civil Servant”?’ <[http://www1.worldbank.org/publicsector/pe/PEAM\\_Who%20and%20What%20is%20a%20Civ%20Servant.doc](http://www1.worldbank.org/publicsector/pe/PEAM_Who%20and%20What%20is%20a%20Civ%20Servant.doc)> [accessed 13 August 2018].

Figure 40: Number of staff left working in the private sector each year as percentage of total staff (FTE)



Note: For total staff number, data was taken from <sup>61</sup>. The data ID is 89380. Total staff number is only available for year 2015, so the increase or decrease in percentage might not be properly reflected. For Lithuania, the number represents the total number of staff that left the tax administration, either to the private sector, or to other sectors, as Lithuania specified they cannot provide only the number of staff who left only for the private sector) This could explain that the number is significantly higher than that of other countries. Data is not available for Cyprus, Latvia, Poland and Slovakia.

Numbers in Finland and Portugal are very low and rather high in Lithuania, whereby the number in Lithuania also includes staff leaving to work in other sectors. It is remarkable that Portugal reported zero staff leaving. This might be due to cultural factors that attach a high prestige to public service.

The following table displays which legal restrictions on staff mobility between the public and the private sector are in place in the responding jurisdictions, as well as information on sanctions on the violation of these restrictions:

Table 7: Restrictions on staff mobility between the public and private sector

	Restriction that applies to all employees	Restriction that applies to	No restriction	Sanctions for violation of restrictions	Past cases of violations of

<sup>61</sup> OECD, *Tax Administration 2017 Annex A: Data Tables*, 98.

		civil servant staff			re- strictions
CYP	O	O	X	N/A	N/A
FIN	X	X	O	X	O
LTU	O	X	O	X	NR
LVA	O	X	O	X	NA
POL	X	O	O	X	NA
PRT	O	O	X	N/A	N/A
SVK	NA	NA	NA	NA	NA

Note: X = answer was chosen; O = answer was not chosen; N/A = question is not applicable; NA = jurisdiction reported that data is not available; NR=no response was provided.

*In Poland the restriction does not apply to all employees, but it includes all civil servants as well as management staff (such as directors, heads of divisions or employees with equal levels of remuneration).*

The restrictions that apply to employees vary in scope. Finland imposes a duty of confidentiality on all employees that leave to work in the private sector. In addition, Finnish senior directors and tax directors have a cooling-off period of 6 months. In Latvia, civil servants may not benefit (i.e. work or hold shares) from a private company for which they made any decisions during their duty in the following 2 years after they quit the tax administration. In Poland and Lithuania there are similar regulations to the one in Latvia, but with a shorter period of 1 year.

All 4 countries that have restrictions also have provisions for sanctions. In Finland, breach of the duty of confidentiality may lead to fines or imprisonment. In Poland, there also might be an arrest penalty. In Latvia and Lithuania, sanctions only include future exclusion from public service or fines. In Lithuania, a repeated violation may lead to fines up to 580 Euro.

#### **4.5.3 Summary/Hypotheses**

The data collected in our survey on actual numbers of staff leaving suggests that further efforts should be directed at collecting this data more systematically. While two countries reported rather low numbers, and one a rather high number, the latter used a different definition to answer the question.

4 countries reported that restrictions such as cooling-off periods are in place, and all of them may apply sanctions in case of breaching the restrictions. Yet in two countries these sanctions appear to be quite lenient. The absence of any data provided on past cases of imposed sanctions might point to a lack of enforcement. Future data gathering efforts might be focused on high risk segments of the tax administration, such as tax audits of large multinationals.

## 4.6 Large taxpayer office

### 4.6.1 Context

Size matters with regards to compliance: Large (corporate) taxpayers pose a greater risk to a tax administration, since they have more complex structures which are more difficult to assess, they can employ specialists that set-up tax avoidance strategies, and they often concentrate a significant share of taxable revenue of an economy in their hands. In most jurisdictions that are members of the OECD, 35% to 50% of total revenue of the tax administrations is managed by specific large taxpayer units or programmes of the tax administration<sup>62</sup>. Handling the compliance risk of large taxpayers is therefore an important role of the tax administration. Therefore, tax administration should spend comparatively more resources on enforcing compliance from large taxpayers than from small companies. Otherwise corporate taxation risks becoming regressive, with small companies facing the highest real burden.

Many tax administrations have created large taxpayer offices (LTO) that are responsible for dealing with taxpayers that are considered large due to criteria such as their turnover, staff numbers or the sector they operate in. The reason for creating such large taxpayer offices is the greater specialization that enables officers to deal more effectively with those complex, often multinational entities. The expertise needed for auditing complex cases can be more efficiently created, mobilized and retained in a central unit than in decentralized offices of a tax administration. It is important that large taxpayer offices are adequately staffed so that they can deal with the difficult task of auditing large companies.

As mentioned in chapter 4.5 above, problems may arise, however, when a too close relationship develops between the large taxpayer officers and the entities they audit, i.e. when it becomes difficult to distinguish between the regulators and the regulated<sup>63</sup>. This problem might be particularly relevant with regards to the large taxpayer office. For large companies regulated by the large taxpayer office, it might be advantageous to place former employees in precisely those departments and/or to offer tax officers the prospective of joining them in the future. Additionally, such phenomenon of “revolving doors” also creates difficulties for the tax administration to reserve high qualified staff and an efficient large taxpayer office.

An indication that such an influence is indeed exercised could be a higher turnover of large taxpayer office staff leaving to work for the private sector than in other parts of the tax administration or in government.

The risk for such a “capture” of the large taxpayer office is probably influenced by factors such as the percentage of permanent and civil service staff working in

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<sup>62</sup> OECD, *Tax Administration 2017*, 51.

<sup>63</sup> Meinzer, *Steueroase Deutschland. Warum Bei Uns Viele Reiche Keine Steuern Zahlen*, 235–62.

the LTO, given it is reasonable to assume those might be more committed to public service and their work status may reduce the incentive to leave the tax administration for the private sector.

A further risk of regulatory capture might be the practice in which tax administration staff regularly work on the premises of the companies they audit, especially if there is no rotation requirement for those tax administration staff working in the private companies' premises may thus reduce the risk for revolving doors.

With regards to the Large taxpayer office, our survey asked for the following questions:

1. The number of staff working in the Large Taxpayer Office for each year (2015-2017)
2. The number of new staff recruited in a given year
3. The number of staff departures in a given year
4. The number of LTO staff and LTO civil servant staff leaving to work for the private sector
5. The number of civil servant staff
6. The number of permanent staff
7. Whether staff usually works on premises of regulated firms
8. And whether there is a rotation requirement for staff working on firms' premises

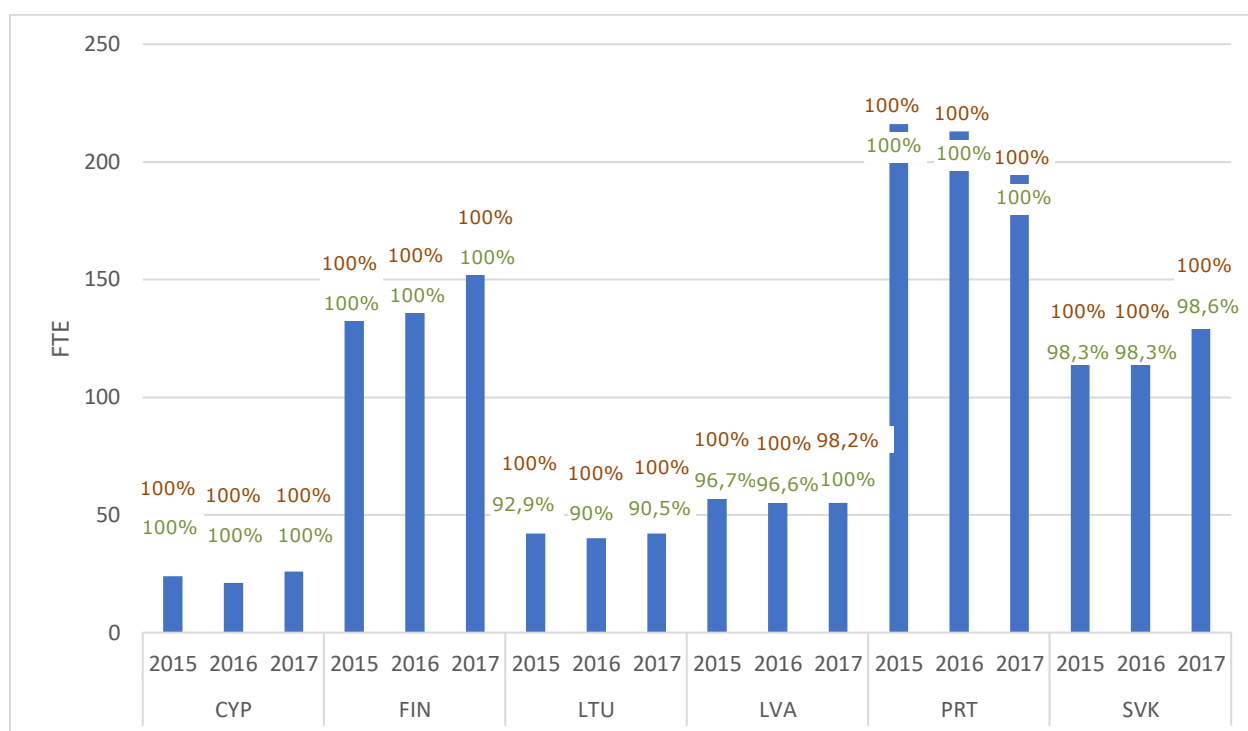
#### 4.6.2 Results

*Table 8: Responses received – Large taxpayer office*

	CYP	FIN	LTU	LVA	POL	PRT	SVK
Large taxpayer office	Partial	Yes	Partial	Yes	No	Partial	Partial



Figure 41: Staff working in the LTO

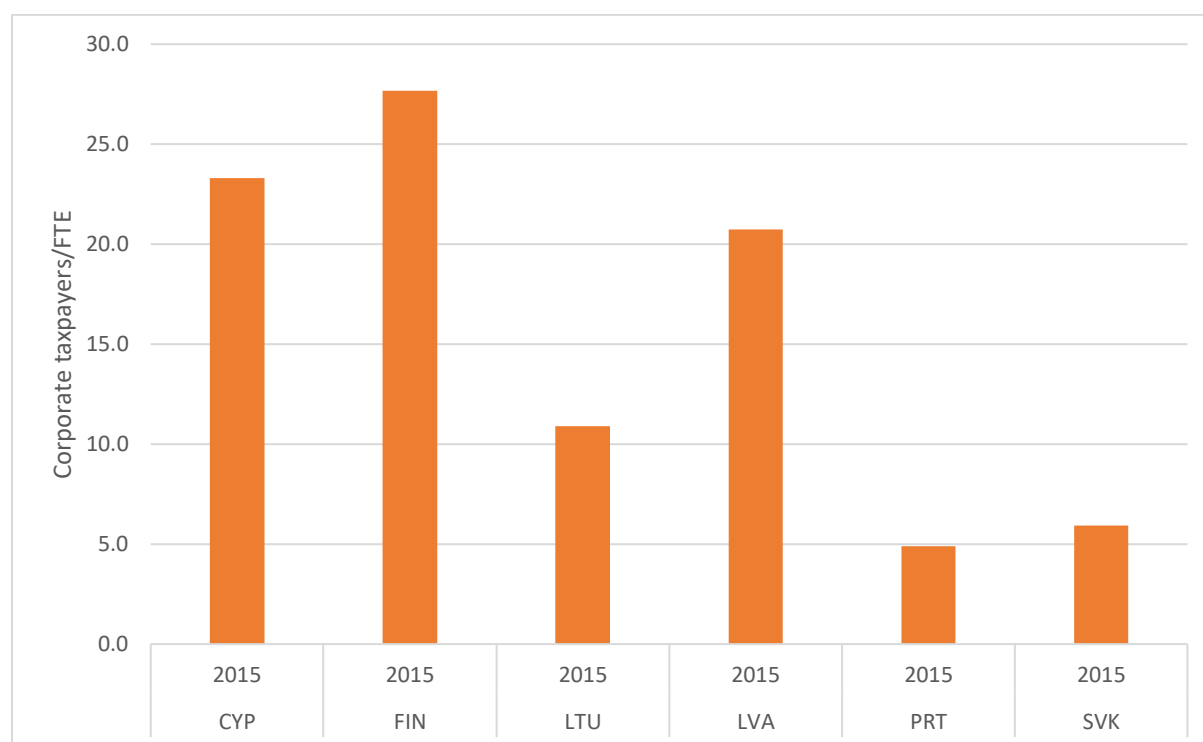


Note: The numbers in **green** indicate the percentage of staff that are civil servants. The numbers in **brown** indicate the percentage of staff that are permanent.

The results indicate that most of the LTO staff are indeed permanent staff and civil servants. Between the years 2015-2017, the total staff number (both permanent and civil servants) increased in Finland and Slovakia; in Latvia and Portugal numbers decreased and in Lithuania and Cyprus, they remained about stable.

To compare the staffing of an LTO between different countries and to have an indication of capacity issues, one can consider the number of FTE compared with the number of corporate taxpayers that are managed by the LTO:

Figure 42: Number of corporate taxpayers managed by the LTO per FTE



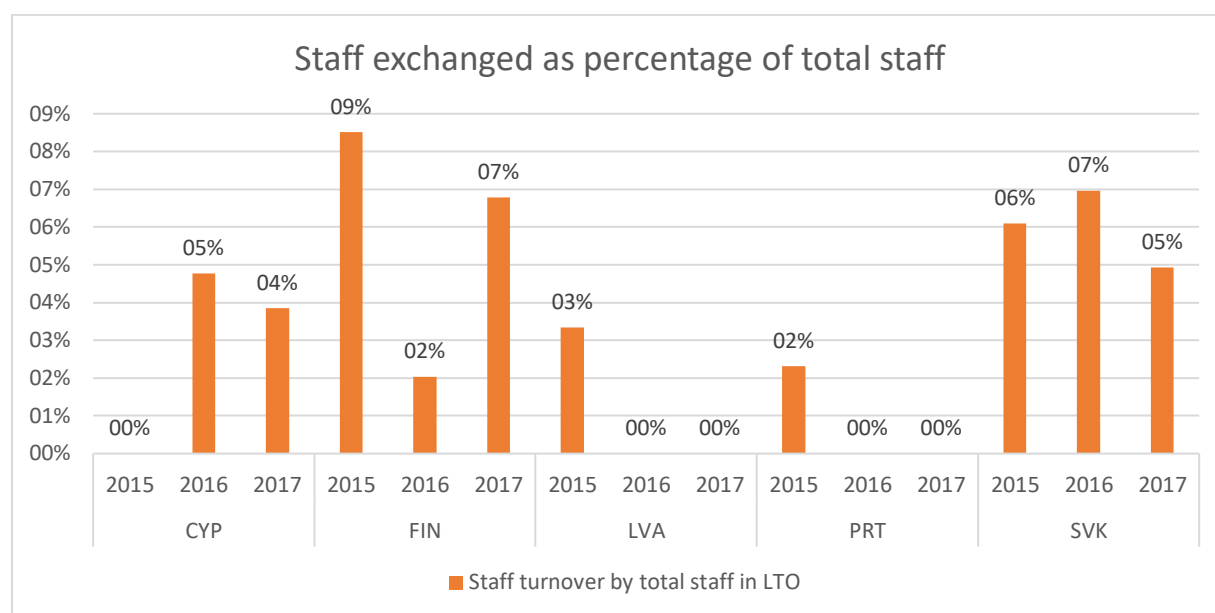
Note: No. of corporate taxpayers managed by the LTO was taken from <sup>64</sup>. The data ID is 81230. For Poland, no data was available.

There are considerable differences regarding the number of taxpayers one FTE needs to manage within the LTO: ranging from only 5 in Portugal to about 28 in Finland. Note that this graph should be read differently than most other graphs in this report: A high column rather indicates low capacity and a low column shows high capacity (a lot of staff per taxpayer). The differences could, however, potentially be explained by different scope of functions of the LTO.

The following charts represent the percentage of staff that left the LTO and is replaced each year, thus not taking into account net increases or decreases in the number of staff. In practice, when the number of departures is lower than the number of recruitments, then total number of staff is divided by the number of departures; when the number of recruitments is lower than the number of departures, total number of staff is divided by recruitments.

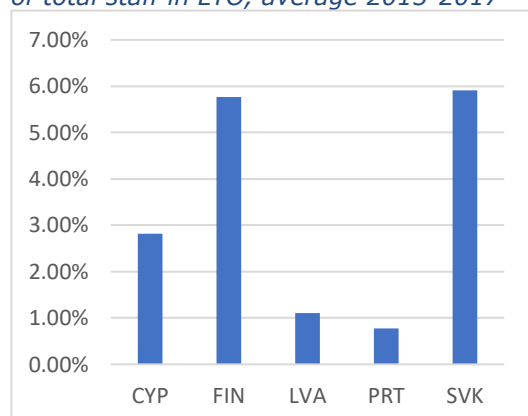
<sup>64</sup> OECD, *Tax Administration 2017 Annex A: Data Tables*, 141.

Figure 43: Staff exchanged as percentage of total staff in the LTO



Note: Data from Lithuania was left outside, as it also included staff that changes departments within the tax administration. For Cyprus and Finland, it remains unclear whether the numbers also include staff that changes departments.

Figure 44: Staff exchanged as percentage of total staff in LTO, average 2015-2017



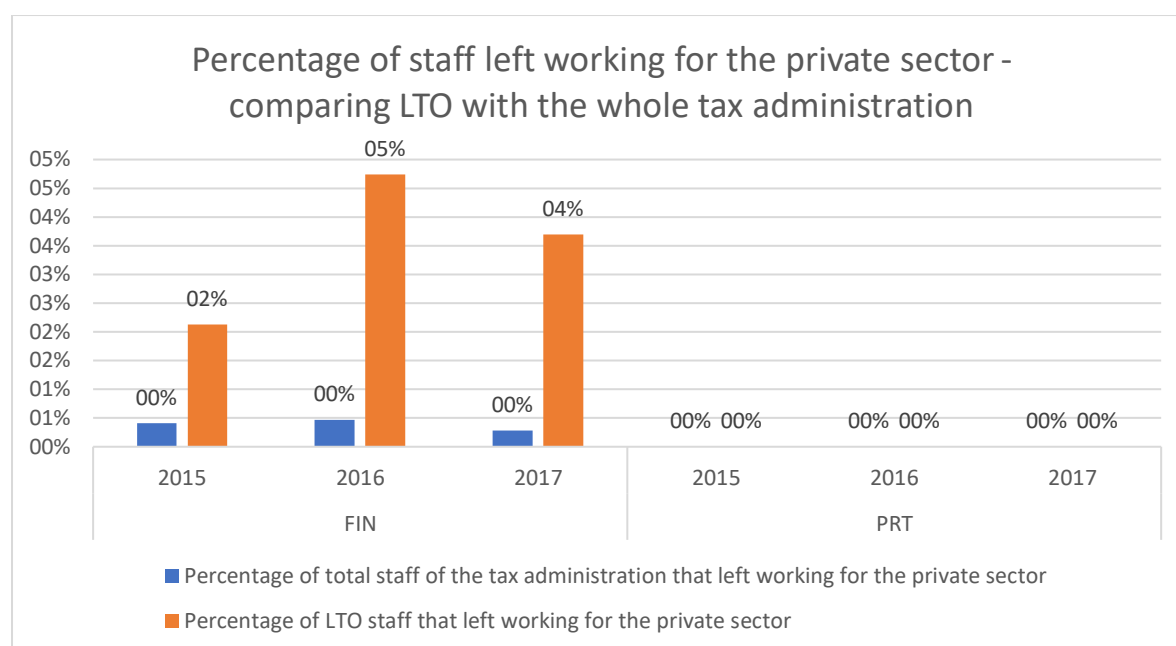
On average, between 1 to 6% of LTO staff left the unit and were replaced every year, dependent on the country. There are notable differences between countries, with rather low percentages in Latvia and Portugal (in two years 0%) and rather high ones in Finland and Slovakia.

However, the interpretation of the figure is not straightforward, as the staff who were recruited could be staff who were recruited from outside the tax administration or staff that change positions within the tax admin-

istration. In Finland around 25% of the people leaving the LTO left to work in the private sector each year. Since the departure into the private sector is what matters with regards to the problem of regulatory capture, staff departures alone are a rather unreliable indicator. Staff frequently leaving the LTO and at the same time the whole administration could point to the "revolving doors" phenomenon; staff rotating within the administration on the other hand could rather reduce the risk, as employees do not interact with the same stakeholders for a long period.

A better indication of "revolving doors" is the percentage of staff that departed and actually went to work for the private sector:

Figure 45: Percentage of staff left working for the private sector - comparing LTO with the whole tax administration



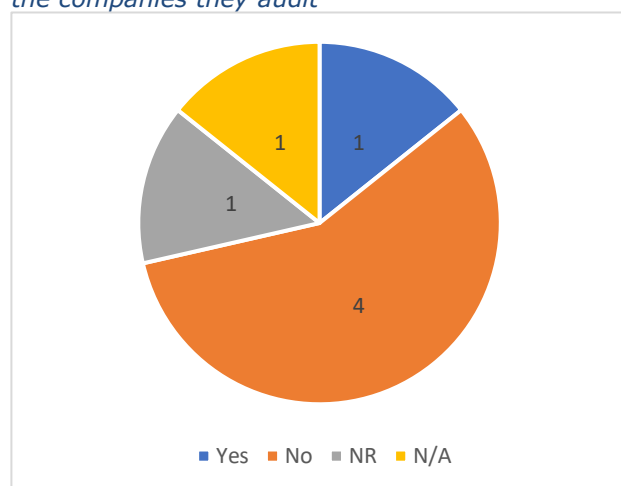
Note: Lithuania reported data, which however represented the staff that left the tax administration, either to the private sector, or to other sectors, as Lithuania specified they cannot provide the number of staff who left only for the private sector. It was therefore left out from the presentation. The number of total staff in the tax administration, data was taken from <sup>65</sup>. The data ID is 89380. Total staff number is only available for year 2015, so the increase or decrease in percentage might not be properly reflected.  
Data is not available for Cyprus, Latvia, Poland and Slovakia.

Is the LTO more prone to regulatory capture than other parts of the tax administration? Since there is data on only three countries, it is difficult to answer this question: In Finland, the share of LTO staff that left working in the private sector is significantly higher than in the overall tax administration, though not very high in total. Portugal reported that no staff at all left the tax administration to work for the private sector. This could be caused by cultural issues, as in some European countries, e.g. Portugal, working in the civil service carries a lot of prestige.

The survey also asked whether LTO staff usually work on the premises of the private companies they audit. In Finland, this is the case; for the other 3 countries it is not the case. Poland reported that no data is available; Slovak Republic did not provide a response.

<sup>65</sup> OECD, *Tax Administration 2017 Annex A: Data Tables*, 98.

Figure 46: LTO staff working on the premises of the companies they audit



Note: NR = No Response; N/A = not applicable  
Numbers are the numbers of jurisdictions that provided each response

The survey further asked whether there is a rotation requirement if staff work on firms' premises. In Finland, this is not the case. For the other countries the question was not applicable.

#### 4.6.3 Summary/Hypotheses

The results of our survey indicate that most of the LTO staff are permanent staff and civil servants. It is common practice in only one country (out of four) that staff works on the premises of firms. It is in this same country that staff leaving for the private sector is considerably

higher in the LTO than in the rest of the tax administration. This confirms earlier findings from a case study in Germany <sup>66</sup>, and underlines the need for both more systematic data gathering on this point, and for case study research into the relationship between regular on-premise auditing and regulatory capture.

## 4.7 High Net Worth Individuals

### 4.7.1 Context

Next to large companies, the other group of taxpayers with a high risk of non-compliance are so-called High Net Worth (or sometimes high Net Wealth) individuals (HNWI). The term is usually used for individuals who own financial assets worth more than one million dollars <sup>67</sup>. A study carried out with data from the "Swiss leaks" <sup>68</sup> and the "Panama Papers" <sup>69</sup> found out that shore tax evasion intensity is indeed a positive function of personal wealth <sup>70</sup>. Tax evasion is more

<sup>66</sup> Meinzer, *Steueroase Deutschland. Warum Bei Uns Viele Reiche Keine Steuern Zahlen*, 235–62.

<sup>67</sup> Investopedia, 'High Net Worth Individual - HNWI', *Investopedia*, 2018 <<https://www.investopedia.com/terms/h/hnwi.asp>> [accessed 23 July 2018].

<sup>68</sup> In the Swiss leaks, data on accounts and clients of HSBC Private bank, a Switzerland based subsidiary of HSBC, showed how this bank helped its clients (among whom were former dictators and arms traffickers) to evade taxes ICIJ, 'Swiss Leaks: Murky Cash Sheltered by Bank Secrecy', 2018 <<https://www.icij.org/investigations/swiss-leaks/>> [accessed 23 July 2018].

<sup>69</sup> The Panama Papers revealed how the Panama-based law firm Mossack Fonseca spun nets of shell companies to help wealthy clients from all over the world evade taxes and launder money ICIJ, 'The Panama Papers: Exposing the Rogue Offshore Finance Industry', 2018 <<https://www.icij.org/investigations/panama-papers/>>..

<sup>70</sup> Annette Alstadsæter, Niels Johannesen and Gabriel Zucman, *Tax Evasion and Inequality* (2017).

prevalent among wealthy people, as among others, wealth management and off-shore banking services, that make it possible to evade taxes undetected, are relatively costly and thus not affordable for average taxpayers. Moreover, wealthy people tend to earn income from many different sources, which can be more easily hidden than income from wages whereupon taxes are withheld by the employer in most countries. Therefore, it is extremely important in order to reduce inequalities that tax administrations specifically focus on High Net Worth Individuals. A dedicated High Net Worth Individuals unit can be an effective organizational structure because it enables to unify relevant skills and knowledge necessary to understand complicated wealth structures (which often involve a deep web of shell companies spread in many jurisdictions).

Hence, some of the same safeguards that apply to an LTO should apply to an HNWI unit, as there could also be a risk for capture from private interests. It is therefore important to gather data on the number of permanent staff and the number of staff who are civil servants as well as on staff who left to work in the private sector.

Thus, similar to the questions asked about the Large Taxpayer Office, the survey asked for total number of staff, staff departures and recruitments, as well as for numbers of civil servant staff and permanent staff working in the High Net Worth Individuals unit. It also asked how many staff members and civil servant staff members left to work in the private sector. We did not ask whether tax administration staff works on the premises of High Net Worth Individuals, as this seems rather unlikely in the case of individuals as opposed to firms.

#### 4.7.2 Results

*Table 9: Responses received – High Net Worth Individuals unit*

	CYP	FIN	LTU	LVA	POL	PRT	SVK
High net worth individual unit	No	Partial	No <sup>71</sup>	No	No <sup>72</sup>	Partial	No

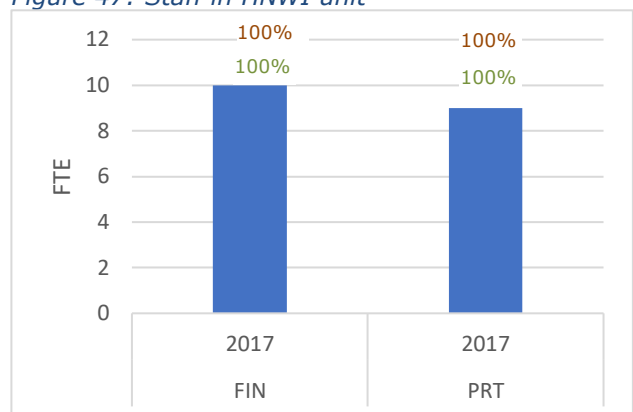
Of the countries surveyed, only Finland and Lithuania reported in the ISORA questionnaire that they have a High Net Worth programme<sup>73</sup>. Lithuania runs such a programme, but there is no dedicated *unit*. Finland reported a total number of 10 FTE working in the HNWI unit in 2017, who are all civil servants and permanent employees. Portugal created an HNWI unit in 2017 with 9 FTE who are all civil servants and permanent employees.

<sup>71</sup> Lithuania reported that the question was not applicable.

<sup>72</sup> Poland reported that the question was not applicable.

<sup>73</sup> OECD, *Tax Administration 2017 Annex A: Data Tables*, 145.

Figure 47: Staff in HNWI unit



Note: The numbers in green indicate the percentage of staff that are civil servants. The numbers in brown indicate the percentage of staff that is permanent. In Portugal, the HNWI unit is part of the LTO.

Both Portugal and Finland reported that no staff was recruited nor left the tax administration. In Portugal, this is probably also due to the fact that the HNWI unit was newly created and 2017. Therefore, all employees were newly recruited in 2017.

### 4.7.3 Summary/Hypotheses

The evidence collected in this survey is not conclusive, as most data was reported as not available or not applicable. From the responses given to the ISORA questionnaire it can be concluded that these countries do not have a specific High Net Worth Individuals unit.

## 4.8 Automatic Exchange of Information

### 4.8.1 Context

Automatic exchange of information is one form of administrative cooperation that was developed in order to combat cross-border tax evasion, which occurs when taxpayers resident in one country for example use foreign accounts or legal entities to keep undeclared income and assets hidden from the tax administration. It means that tax administrations exchange with each other information necessary to assess tax liabilities of its resident taxpayers that arise due to assets and income earned abroad. The information includes for example names and addresses of persons owning a bank account or other financial assets in the jurisdictions and values of these assets. The standard of automatic exchange of information complemented the previous standard of exchange of information upon request, where an administration had to formulate a specific request to a foreign administration in order to obtain information <sup>74</sup>.

<sup>74</sup> Markus Meinzer, 'Automatic Exchange of Information as the New Global Standard: The End of (Offshore Tax Evasion) History?', *SSRN Electronic Journal*, 2017 <<http://www.ssrn.com/abstract=2924650>> [accessed 21 July 2017].

However, the exchanged information is of no use if nothing is done with the information, i.e. if the administration does not process the data or does not dispatch enough staff to analyse data. In fact, it could be a long way from receiving raw data from another jurisdiction, to finally claiming and enforcing a potential outstanding tax payment: The data received needs to be matched to taxpayers registered in the jurisdictions, which could fail due to a falsely declared place of residence by the taxpayer <sup>75</sup>.

In its report on the implementation of the directive on administrative cooperation, which provides the legal basis for automatic exchange of information within the EU, the European Commission noted that “application of DAC exchange of information has resulted in a great increase in the amount of data tax administrations have to handle – but on average their capacity to do so has not increased at the same rate” <sup>76</sup>.

Indicators for a lack of resources to deal with the data received could be a low number of FTE that are responsible for reviewing the data or a high number of reports that cannot be matched to any taxpayers or a low number of audits engaged as a result of AEOI data.

Moreover, jurisdictions are responsible ensuring that the data they send to other jurisdictions is of good quality. Therefore, they need to audit financial institutions (banks etc.) that report data of foreign taxpayers. They need to make sure, among others, that all the necessary data is collected by the financial institutions, that due-diligence-processes are applied, and that data is stored in an appropriate way. Compliance by financial institutions with the requirements of the standard is one of the potential Achilles heels of the common reporting standard. If a bank does not properly collect data on certain taxpayers, there is no data that can subsequently be exchanged.<sup>77</sup>

In some jurisdictions, the tax administration is responsible also for auditing the reporting financial institutions.

The survey asked how many staff is employed for processing data received pursuant to the common reporting standard. It further asked for information on the number of taxpayers for whom data was sent and received in 2017; how many of the reports received could not be matched to any registered taxpayer; how often

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<sup>75</sup> Andres Knobel and Frederik Heitmüller, *Citizenship and Residency by Investment Schemes: Potential to Avoid the Common Reporting Standard for Automatic Exchange of Information*, 2018 <[http://taxjustice.wpen-gine.com/wp-content/uploads/2018/03/20180305\\_Citizenship-and-Residency-by-Investment-FINAL.pdf](http://taxjustice.wpen-gine.com/wp-content/uploads/2018/03/20180305_Citizenship-and-Residency-by-Investment-FINAL.pdf)> [accessed 21 August 2018].

<sup>76</sup> European Commission, *REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL on the Application of Council Directive (EU) 2011/16/EU on Administrative Cooperation in the Field of Direct Taxation*. (Brussels, 2017), 3 <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52017DC0781>> [accessed 6 August 2018].

<sup>77</sup> <https://www.taxjustice.net/2018/07/11/its-time-for-countries-to-start-publishing-the-data-theyre-collecting-under-oecd-common-reporting-standard/>; 15.8.2018.s



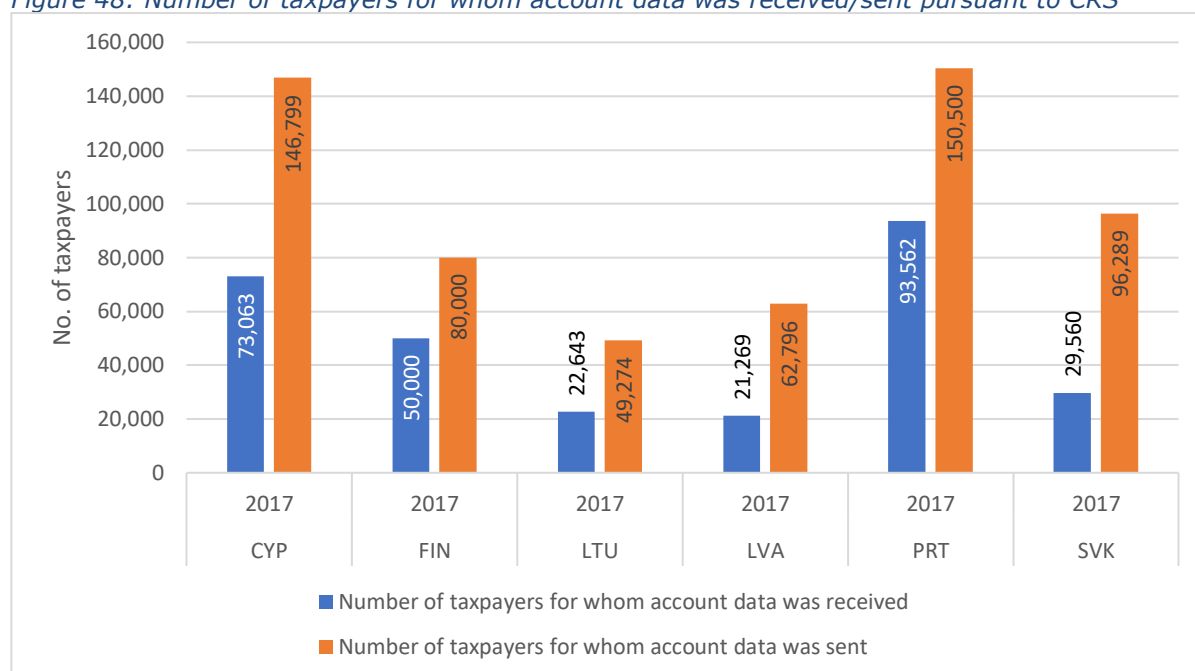
“reporting financial institutions” were audited by the tax administration and for how many taxpayers additional audits have been launched as a result of data received through AEOI in 2017. Finally, it was asked whether the jurisdiction was willing to release aggregated statistics (on a country basis) on AEOI.

## 4.8.2 Results

Table 10: Responses received – Automatic exchange of information

	CYP	FIN	LTU	LVA	POL	PRT	SVK
Automatic exchange of information	Partial	Partial	Yes	Partial	Yes	Partial	Partial

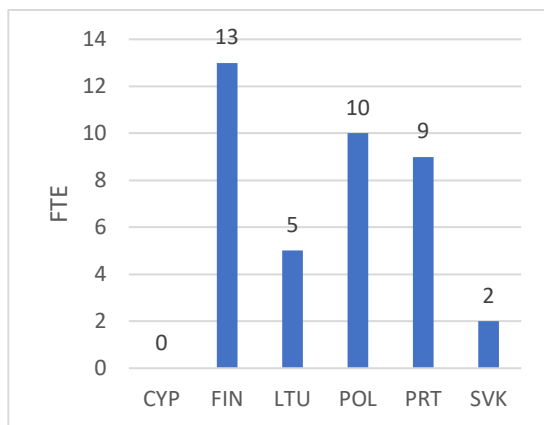
Figure 48: Number of taxpayers for whom account data was received/sent pursuant to CRS



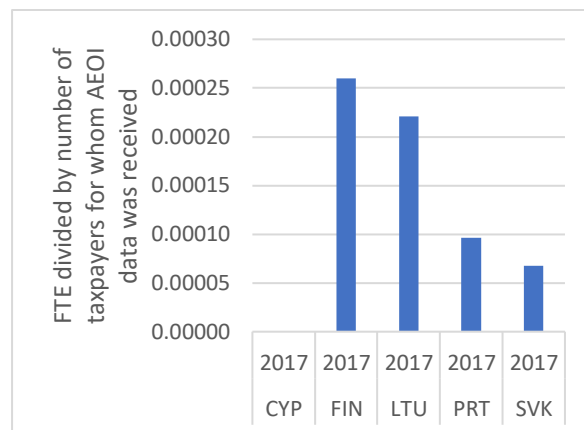
Note: Poland reported the number of reports that were received/sent, and not the number of taxpayers on whom reports were received/sent. Thus, the number is not comparable with the other jurisdictions. Poland reported the reception of 235,690 and the sending 42,302 reports.

Figure 49: Number of staff responsible for processing and reviewing AEOI data

Figure 50: No. of staff responsible for AEOI divided by number of taxpayers for whom AEOI data was received in 2017



Note: Latvia reported not available. In Portugal, the personnel responsible for CRS [common reporting standard] is also responsible for all the administrative cooperation, meaning also for CBCR for example.

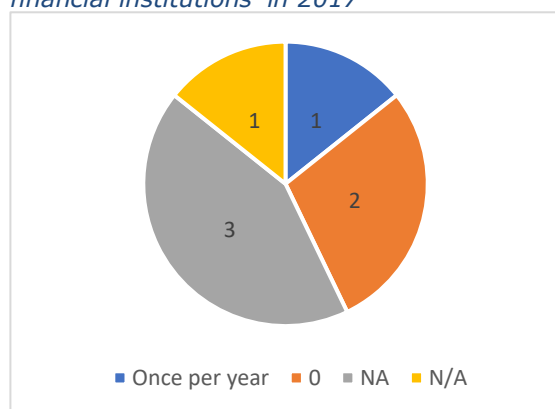


Note: The figures are calculated with data from figure 48 and 49. The notes from these tables apply here as well.

Poland receives significantly more data than it sends. All other countries send more data than they receive. Both Cyprus and Latvia seem not to have FTE that are responsible for reviewing and processing the data received. Comparatively, Lithuania has dispatched the highest amount of staff to analyse data in relation to the number of taxpayers for whom reports were received. It needs to be noted that fewer staff numbers responsible for data might also indicate that the jurisdiction relies more on technology and uses more advanced computer technology to analyse the data.

The survey asked for how many accounts the data received could not be matched to any tax residents in the jurisdictions. Lithuania reported that this was the case for 73 taxpayers, i.e. approximately 4%. All other jurisdictions reported that the data is either not available or that the matching was still being processed at the moment the survey was filled in.

Figure 51: Audit of CRS implementation by 'reporting financial institutions' in 2017



Note: NA = Not available; N/A = Not applicable

The Lithuanian tax authority audits once per year whether reporting financial institutions correctly implement the common reporting standard. Cyprus and Latvia reported 0 audits were undertaken; Poland, Finland and Slovakia reported that this information was not available. Portugal reported the question was not applicable.

The survey finally asked for how many taxpayers audits have been

initiated as a result of account data received under the common reporting standard. This was the case in Finland and Lithuania, where about 1000 and 90 audits respectively were initiated in 2017. Portugal noted that data is currently still being processed. All other countries reported that no audits were initiated because of account data received.

#### **4.8.3 Summary/Hypotheses**

As the automatic exchange of information has been implemented only recently by the surveyed countries, the evidence is not conclusive. Nevertheless, it is noteworthy that audits of 'reporting financial institutions' have not been undertaken by tax administrations with the exception of one country. In a few cases that could be due to the fact that another government department than the tax administration is responsible for auditing the 'reporting financial institutions'.

Desk research has revealed that it is difficult to find out which institution is responsible for auditing compliance by 'reporting financial institutions'. Subsequent surveys should gather this information directly from tax administrations.

It needs further to be noted, that only in one country (Finland), additional audits have been launched, which might be explained by the fact that the review procedures are still under way in other jurisdictions. If similarly low numbers are reported in future surveys, however, this might indicate a lack of capacity to analyse and act upon the received data effectively.

It is encouraging that Lithuania succeeded in matching 93% of the data, which is among the highest matching ratios for tax records under cross-border automatic information exchange on record <sup>78</sup>.

### **4.9 CBCR**

#### **4.9.1 Context**

The introduction of country by country reporting is one of the recommendations of the Base Erosion and Profit Shifting (BEPS) plan by the OECD. Multinational companies that are headquartered in one of the participating jurisdictions now need to submit a report to the tax administration containing information about its profits, capital, assets and employees separately for each jurisdiction it operates in. The tax administration then shares the country by country reports with all the jurisdictions with whom it has entered into an agreement and which are mentioned in the country by country report. Alternatively, some jurisdictions require CBCR reports directly from subsidiaries of multinational enterprises if they cannot

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<sup>78</sup> Markus Meinzer, *Towards Multilateral Automatic Information Exchange. Current Practice of AIE in Selected Countries*, Tax Justice Network (London, 2012), 19, 65–66 <<http://www.taxjustice.net/cms/upload/pdf/AIE2012-TJN-Briefing.pdf>> [accessed 14 February 2013].

obtain a report through automatic information exchange <sup>79</sup>. The aim of the measure is to provide tax administrations with the means to better understand where a multinational company generates added value so that it can better evaluate transfer prices and counter tax avoidance schemes.

For the exchange of country by country reports to be effective, however, it is important that the tax administration properly analyses the reports received and use the data in audits. A practice of a tax haven jurisdiction engaging in a strategy of “mock compliance”<sup>80 81</sup> might consist in complying (on paper) with the OECD BEPS recommendations and exchanging country by country reports, yet failing to make any use of the data received subsequently.

Indicators whether a tax administration indeed uses country by country reporting data could be the allocation of human resources compared to the number of reports received as well as the number of additional audits engaged after the analysis of country by country reports.

The survey first asked whether the tax administration has established a dedicated service and how many staff is employed for processing CBCR data. It further asked for information on the number of taxpayers for whom data was sent and received in 2017 and for how many taxpayers additional audits have been launched as a result of exchanged country-by-country reports in 2017. Finally, it was asked whether the jurisdiction was willing to release further statistics on CBCR.

#### 4.9.2 Results

*Table 11: Responses received – Country by country reporting*

	CYP	FIN	LTU	LVA	POL	PRT	SVK
Country by country reporting	Yes	Partial	Partial	Yes	Yes	Yes	Partial

<sup>79</sup> Andres Knobel and Alex Cobham, ‘COUNTRY-BY-COUNTRY REPORTING: HOW RESTRICTED ACCESS EXACERBATES GLOBAL INEQUALITIES IN TAXING RIGHTS’, 2016 <<https://www.taxjustice.net/wp-content/uploads/2016/12/Access-to-CbCR-Dec16-1.pdf>> [accessed 9 February 2017]; Tax Justice Network, *Financial Secrecy Index 2018 - Methodology* (London, 2018), 77–84 <<https://www.financialsecrecyindex.com/PDF/FSI-Methodology.pdf>> [accessed 14 February 2018].

<sup>80</sup> „Mock compliance occurs when someone fulfils the formal requirements of a standard, for instance by ratifying a treaty, but fails to deliver on its substance, for instance by dragging his feet on enforcement.” Peter Dietsch, ‘Whose Tax Base? The Ethics of Global Tax Governance’, in *Global Tax Governance – What Is Wrong with It, and How to Fix It*, ed. by Peter Dietsch and Thomas Rixen (Colchester, 2016), 240..

<sup>81</sup> Richard Woodward, ‘A Strange Revolution: Mock Compliance and the Failure of the OECD’s International Tax Transparency Regime’, in *Global Tax Governance – What Is Wrong with It, and How to Fix It*, ed. by Thomas Rixen and Peter Dietsch (Colchester, 2016), 103–22.

Figure 52: Establishment of dedicated service to manage CBCR data

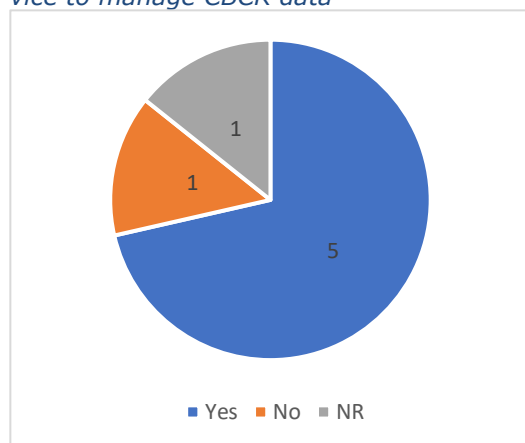
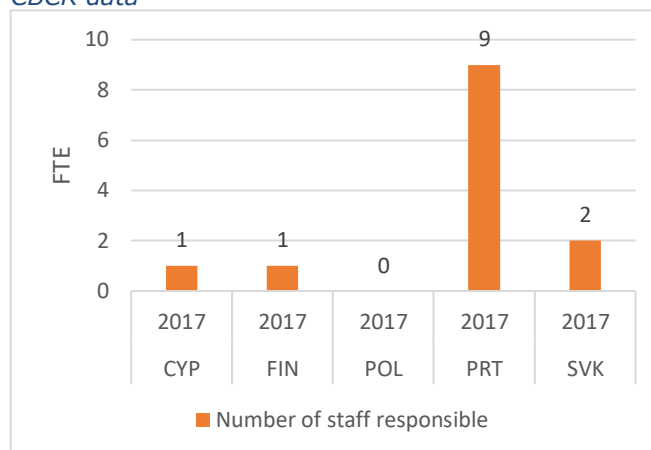


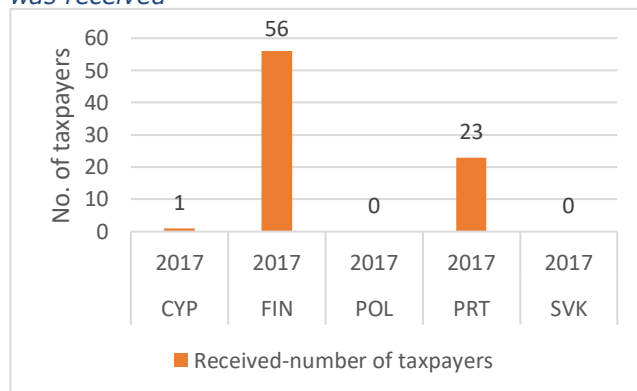
Figure 53: Number of staff responsible for processing CBCR data



Note: Lithuania reported not applicable, Latvia reported that the exchange was not carried out yet. In Portugal, staff responsible for CBCR is also responsible for other tasks of administrative cooperation, for example under the common reporting standard.

5 jurisdictions have established a dedicated service to manage CBCR data. Portugal reported that it is not yet established (implying that it is planned). Slovakia did not provide a response.

Figure 54: Number of taxpayers for whom CBCR data was received



Note: Lithuania reported not applicable, Latvia reported that the exchange was not carried out yet.

The survey also asked, for how many taxpayers CBCR data was sent to other jurisdictions. No jurisdictions however has already sent out any CBCR data. The number of taxpayers for whom data was received varies between 0 in Poland and Slovakia and 56 in Finland. One further difficulty is the lack of availability of statistics on the hypothetical number for how many taxpayers data should be received. Such information should be gathered in subsequent research in order to compare

problems with the implementation of country by country reporting exchanges.

Finally, the survey asked for how many taxpayers any kind of audit has been initiated as a result of CBCR reports received. This has not been the case anywhere so far.

### **4.9.3 Summary/Hypotheses**

Almost all of the jurisdictions have established a dedicated service and reserved staff for managing and analysing data from country by country reports. In some countries, this number is rather low, though, with sometimes only 1 FTE. Given the recent implementation of country by country reporting, the evidence should not be treated as conclusive yet, but it is necessary to monitor the use of CBCR data, in order to assess the effectiveness of the measure.

## **Conclusions**

This report discussed issues of the evaluation of tax administration capacity, with a special focus on the capacity to combat tax evasion and tax avoidance and thus reduce inequality. In that context, it assessed what data is available to compare EU member states with each other and identified further interesting issues that were not covered by the various available surveys on tax administration. To address these issues, a new survey was designed and sent to the tax administrations of all EU member states. Seven jurisdictions provided answers. Although the data they provided may not be sufficient to draw final conclusions about the capacity of all EU tax jurisdictions, especially as taking into account many intervening factors such as tax policy variables or voluntary compliance by taxpayers would be necessary, it gives an indication about which hypotheses are worth pursuing more in-depth in a future research.

With regards to audit activity, a decline in the practice of auditing tax returns could be observed, as well as a decline in the number of on-site audits in two out of three countries. Further research should investigate how this decline can be explained. Potential hypotheses include lower budgets or political interference ("tax haven" state strategy, "mock compliance"), but also a greater reliance on IT and data analysis solutions or pre-populated tax returns.

Qualitative research should be conducted into the practices of imposing penalties and penalty collection. The data from the survey revealed that there are important differences between countries concerning the imposition of penalties, both in value as in number. It has also revealed that the effective collection of penalties seems to be a problematic issue, as neither of the three jurisdictions that reported data succeeded in collecting more than 50% of the penalties that were charged in any of the years. Further research could explore what stands in the way of an effective collection of penalties. As only few cases that have been referred to criminal prosecutions were finalised in the responding jurisdictions, it would be interesting to further investigate why this is the case. Is this an issue of the court system? Or do tax administrations lack the power to assemble the necessary evidence, or might there be more political reasons for a lack of enforcement?

The research also reveals that the protection of whistleblowers within tax administrations is still not achieved among tax administrations. We recommend all administrations to consider the introduction of specific laws that protect whistleblowers who reveal illicit practices from prosecution.

Somewhat less fruitful seems to be the “revolving door” hypothesis. At least in the countries that participated in the survey, the number of employees leaving the tax administration (or in particular the large taxpayer office), seems to be rather small. However, this survey did not assess the number of employees who joined the tax administration coming from the private sector (albeit this might be primarily a problematic issue with regards to higher, more political positions).

The data obtained on the implementation of automatic information exchange and country by country reporting is not yet conclusive (also due to the relatively recent implementation of the standards). Nevertheless, it is important to conduct further studies and to assess whether these legal tools are effectively used (and usable) by tax administrations in order to combat tax evasion and tax avoidance.

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## Annex A: Questionnaire



### Tax Administration Questionnaire

Instructions
1. Please read the questions carefully and answer in the yellow colored area dedicated for each answer. Please note that in certain cases -where we specified- some of the questions can be skipped if the answer to the previous question was not applicable or not affirmative.
2. In cases where information is not available, please write 'Not Available' or 'NA' in the dedicated place for the answer.

ID	Topic	Question	Info Answer	Criteria/Detail			
1	<b>Number of Desk Audits</b>	For each of the following criteria, please provide the number of desk audits (please see 'annex A' for term clarifications) for the years 2015-2017.			2015	2016	2017
			1.a	Total number of Desk audits.			
			1.b	Number of Desk audits regarding Personal Income Tax (PIT).			
			1.c	Number of Desk audits regarding Corporate Income Tax (CIT).			
			1.d	Number of Desk audits regarding Value Added Tax (VAT).			
2	<b>Audits of Tax Returns</b>	2.1 How many of the total submitted tax			2015	2016	2017
			2.1.a				

		returns were audited by the tax administration (rather than only self-assessed by the taxpayers) in each of the years 2015-2017?		Please specify in absolute <b>num- bers.</b>			
			2.1.b	Please specify in <b>percentage</b> of total tax re- turns.			
			2.1.c	...of which relat- ing to <b>PIT</b> . Please specify in absolute <b>num- bers.</b>			
			2.1.d	...of which relat- ing to <b>PIT</b> . Please specify in <b>percentage</b> of total <b>PIT</b> tax re- turns.			
			2.1.e	...of which relat- ing to <b>CIT</b> . Please specify in absolute <b>num- bers.</b>			
			2.1.f	...of which relat- ing to <b>CIT</b> . Please specify in <b>percentage</b> of total <b>CIT</b> tax re- turns.			
			2.1.g	...of which relat- ing to <b>VAT</b> . Please specify in absolute <b>num- bers.</b>			
			2.1.h	...of which relat- ing to <b>VAT</b> . Please specify in <b>percentage</b> of total <b>VAT</b> tax re- turns.			

3	Administrative Penalties Imposed	3.1 For each of following criteria please indicate the <b>number</b> (frequency) and <b>value</b> (monetary amounts) of administrative penalties imposed for taxpayer non-disclosure/false disclosure of taxable income or expenditures for each of the years 2015-2017.			2015	2016	2017
			3.1.a	Total <b>number</b> of administrative penalties due.			
			3.1.b	Total <b>value</b> of administrative penalties due.			
			3.1.c	...Of which <b>number</b> of administrative penalties relating to <b>PIT</b> .			
			3.1.d	...Of which <b>value</b> of administrative penalties relating to <b>PIT</b> .			
			3.1.e	...Of which <b>number</b> of administrative penalties relating to <b>CIT</b> .			
			3.1.f	...Of which <b>value</b> of administrative penalties relating to <b>CIT</b> .			
			3.1.g	...Of which <b>number</b> of administrative penalties relating to <b>VAT</b> .			
			3.1.h	...Of which <b>value</b> of administrative penalties relating to <b>VAT</b> .			

4	Administrative Penalties Collected	4.1. For each of following criteria please indicate the percentage of administrative penalties (referred in question 3 above) collected so far, sorted according to the years in which the penalties were imposed.	4.1.a	The percentage of <b>total</b> administrative penalties collected so far.			
			4.1.b	The percentage of administrative penalties <b>relating to PIT</b> collected so far.			
			4.1.c	The percentage of administrative penalties <b>relating to CIT</b> collected so far.			
			4.1.d	The percentage of administrative penalties <b>relating to VAT</b> collected so far.			
5	Prosecutions	5.1 For each of the following criteria, please provide the number of criminal tax investigations <b>referred</b> for prosecution during the years 2015-2017.			2015	2016	2017
			5.1.a	<b>Total</b> number of criminal tax investigations referred to prosecution.			
			5.1.b	Number of criminal tax investigations of <b>PIT</b> referred to prosecution.			
			5.1.c	Number of criminal tax investigations of <b>CIT</b> referred to prosecution.			
		5.1.d	Number of criminal tax investigations of <b>VAT</b> referred to prosecution.				
		5.2 For each of the following criteria, please provide the			2015	2016	2017
5.2.a	<b>Total</b> number of criminal tax in-						



		number of criminal tax investigations <b>finalised through</b> prosecution during the years 2015-2017.		vestigations finalised through prosecution.			
			5.2.b	Number of criminal tax investigations of <b>PIT</b> finalised through prosecution.			
			5.2.c	Number of criminal tax investigations of <b>CIT</b> finalised through prosecution.			
			5.2.d	Number of criminal tax investigations of <b>VAT</b> finalised through prosecution.			

6	<b>Whistle-blower protection and reward</b>	6.1 Does the jurisdiction offer specific legal protection for whistle-blowers in the tax administration (both permanent and contractual employees) who report on and/or publish cases of serious violations of the law (e.g. political interference, disruption of procedure, abuse of office, tax evasion, bribery, etc) within the tax administration?	6.1.a	Yes (please describe the type of legal protection and provide a link or reference to the source of information).	
			6.1.b	No	
		6.2 Were there any cases where serious violations of the law were revealed as a result of whistle-blowers who were tax administration's staff?	6.2.a	Yes (please provide details on the cases and a link or reference to the source of information).	
			6.2.b	No	
		6.3 Are whistleblowers at the tax administration exposed to prison terms for breaching confidentiality laws or contracts ?	6.3.a	Yes (please provide a link or reference to the source of information).	
			6.3.b	No	
			6.4.a		

		6.4 Were there any cases in the past where whistleblowers were sanctioned (e.g. fired or imprisoned) for divulging or publicly disclosing confidential information?		Yes (please provide details on the cases and a link or reference to the source of information).			
			6.4.b	No			
7	<b>Staff metrics in Large Taxpayer Office / Programme</b>	7.1 For each of following criteria, please provide details on the number of staff working in the large taxpayer office/programme (LTO) in the years 2015-2017. If your jurisdiction doesn't have an LTO, please write 'Not- applicable' under each of the years 2015-2017.			2015	2016	2017
			7.1.a	<b>Total number of staff</b> (in FTE) working in the LTO at the end of the year.			
			7.1.b	Number of <b>staff departures</b> in the LTO during the year.			
			7.1.c	Number of <b>staff recruitments</b> in the LTO during the year.			
			7.1.d	Number of <b>civil servant staff*</b> (in FTE) working in the LTO at the end of the year.			
			7.1.e	Number of <b>permanent staff*</b> (in FTE) working in the LTO at the end of the year.			
		<b>[please skip if the answer to 7.1 above is not applicable]</b>	7.2.a	Yes			
		7.2 Is it a common practice for	7.2.b	No			

		tax admin- istration staff working in the LTO to be working on an ongoing basis on the prem- ises of private companies they audit?			
		<b>[please skip if the answer to 7.2. above is No]</b> 7.3 Is there any rotation requirement for those tax administration staff working on the prem- ises of the pri- vate compa- nies (e.g. a maximum number of months/years the tax admin- istration audi- tor can work on the audit of the same large taxpayer)?	7.3.a	Yes (please de- scribe them or provide a link to the source of in- formation).	
			7.3.b	No	

8	<b>Staff metrics in High Net Wealth Individuals Unit or programme</b>	8.1 For each of following criteria please provide the number of staff working in the High Net Wealth Individuals (HNWIs) unit/programme at the end of the years 2015-2017. If you don't have an HNWI's unit/programme, please write 'Not applicable' under each of the years 2015-2017.			2015	2016	2017
			8.1.a	<b>Total number of staff</b> (in FTE) working in the HNWI's unit/programme at the end of the year.			
			8.1.b	Number of <b>staff departures</b> in the HNWI's unit/programme during the year.			
			8.1.c	Number of <b>staff recruitments</b> in the HNWI's unit/programme during the year.			
			8.1.d	Number of <b>civil servant staff*</b> (in FTE) working in the HNWI's unit/programme.			
			8.1.e	Number of <b>permanent staff*</b> (in FTE) working at the HNWI's unit/programme.			
9	<b>Staff mobility between the private and public sectors</b>	9.1 For each of the years 2015-2017, please mention the total number of tax administration's staff who left the tax administration for working in the private sector.			2015	2016	2017
			9.1.a	<b>Total</b> number of tax administration's staff who left for working in the private sector.			
			9.1.b	Total number of tax administration's <b>civil servant</b> staff who left for working in the private sector.			
			9.1.c				

				Number of <b>LTO's total staff</b> who left for working in the private sector.			
			9.1.d	Number of <b>LTO's civil servants staff</b> who left for working in the private sector.			
			9.1.e	Number of <b>HNWIs unit/pro-gramme's total staff</b> who left for working in the private sector.			
			9.1.f	Number of <b>HNWIs unit/pro-gramme's civil servants staff</b> who left for working in the private sector.			
		9.2 Are there any restrictions imposed by law or regulation for tax administration's staff who leave the tax administration for working in the private sector (e.g. cooling-off periods)?	9.2.a	Yes, for <b>all types of staff</b> (please specify the restriction or provide a reference).			
			9.2.b	Yes, <b>only for civil servants staff</b> (please specify the restriction or provide a reference).			
			9.2.c	No			
			9.3.a				

		<p><b>[please skip if the answer to 9.2 above is No]</b></p> <p>9.3 Are there any criminal sanctions or administrative sanctions (e.g. fines, loss of pension rights) or other sanctions (e.g. deprivation of professional license) for violation of these restrictions?</p>		Yes. Please specify the sanction and provide a reference.			
			9.3.b	No			
		<p><b>[please skip if the answer to 9.2 above is No]</b></p> <p>9.4 Were there any cases of violation of these restrictions in the past by tax administration's staff from 2015 to 2017?</p>	9.4.a	Yes. Please specify and provide a reference.			
			9.4.b	No			
					2015	2016	2017
10	<b>Automatic Information Exchange</b>	<p>10.1 Please provide the number of staff (in FTE) responsible for processing and reviewing the account data received through the implementation of the Common Reporting Standard (CRS) at the end of the year 2017.</p>	10.1.a	Please specify in absolute numbers.			
		10.2 Please specify the total	10.2.a	Number of taxpayers for whom account			

		number of tax-payers for whom account data was re-ceived from or sent to a foreign tax administra-tion with an ac-tivated CRS ex-change relation-ship at the end of the year 2017.		data was re-ceived.		
			10.2.b	Number of tax-payers for whom account data was sent.		
		10.3 Please pro-vide the number of taxpayers for whom the ac-count data re-ceived through CRS exchange relationship for year 2017 could not be matched so far by the tax administration to any tax resi-dent.	10.3.a	Please specify in absolute num-bers.		
		10.4 How often did the tax ad-ministration au-dit the imple-mentation of the CRS (domes-tic legislation and regulation) by reporting fi-nancial institu-tions during the year 2017?	10.4.a	If the tax admin-istration is not responsible for this task, please write Not Appli-cable.		



		10.5 Please specify the number of tax-payers about whom any type of audit has been initiated by the tax ad-ministration based on the ac-count data re-ceived through CRS exchange relationship for the year 2017.	10.5.a	Please specify in absolute num-bers. Please see 'annex A' for clarifications of the different types of audits.		
		10.6 Would the tax administra-tion be willing to release more detailed aggre-gate data along our proposal for statistics tem-plate: <a href="https://www.ta xjustice.net/wp-content/up-loads/2013/04/AEol-Statistics-Explanation-with-pro-posal.pdf">https://www.ta xjustice.net/wp-content/up-loads/2013/04/AEol-Statistics-Explanation-with-pro-posal.pdf</a> ?	10.6.a	Yes. Please pro-vide a contact person with whom we can follow up on this.		
			10.6.b	No.		

11	<b>Country- by- Country Re- porting</b>	11.1 Has the tax administration established a dedicated service to manage data received through Country-by-Country Reporting (CBCR)?	11.1.a	Yes				
			11.1.b	No				
		11.2 Please provide the number of staff (in FTE) responsible for reviewing the data received through CBCR at the end of the year 2017.			2015	2016	2017	
			11.2.a	Please specify in absolute numbers.				
		11.3 Please specify the total number of tax-payers for whom CBCR data was received from or sent to a foreign tax authority at the end of the year 2017.	11.3.a	Number of tax-payers for whom data was received.				
			11.3.b	Number of tax-payers for whom data was sent.				
		11.4 Please specify the number of tax-payers about whom any type of audit has been initiated by the tax administration based on the data received through CBCR for the year 2017.	11.4.a	Please specify in absolute numbers. Please see 'annex A' for clarifications of the different types of audits.				
		11.5 Would the tax administration be willing to release country level aggregates of CBCR	11.5.a	Yes. Please provide a contact person with whom we can follow up on this.				

		data, to be filed in <a href="http://data-fortaxjustice.net/?">http://data-fortaxjustice.net/?</a>	11.5.b	No	
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## Annex B: Glossary

### Glossary

<b>Administrative Penalties</b>	Civil sanction imposed on the violation of an act, regulation or the law which is not considered a crime, and is designed to secure compliance.
<b>Desk audits</b>	Intervention usually resulting from an in-office review of information returned by the taxpayer and normally takes the form of further written or telephonic enquiries.
<b>Full Time Equivalent (FTE)</b>	An FTE of 100% means resources equal to one staff member available for one full year working full time (regardless of role).

### Abbreviations

<b>CBCR</b>	Country-by-Country Reporting
<b>CIT</b>	Corporate Income Tax
<b>CRS</b>	Common Reporting Standard
<b>FTE</b>	Full Time Equivalent
<b>HNWIs</b>	High Net Wealth Individuals
<b>LTO</b>	Large Tax Office/Programme
<b>PIT</b>	Personal Income Tax
<b>VAT</b>	Value Added Tax



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